10-28-87
Vol. 52 No. 208
Pages 41399–41550

Federal Register

Wednesday
October 28, 1987

Briefings on How To Use the Federal Register—
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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: November 20, at 9 a.m.
WHERE: National Archives and Records Administration, Room 410, 8th and Pennsylvania Avenue NW., Washington, DC.
RESERVATIONS: Robert D. Fox, 202–523–5239.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 52, No. 208
Wednesday, October 28, 1987

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruits, Tangerines, and Tangelos Grown in Florida; Relaxation of Minimum Size Requirements for Florida Grapefruit and Tangerines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule relaxes the minimum size requirements for shipments of domestic and imported pink seedless grapefruit from size 48 (3$^{9}/_{16}$ inches in diameter) to size 56 (3$^{5}/_{16}$ inches in diameter). In addition, the minimum size requirement for domestic shipments of Dancy tangerines is relaxed from size 176 (2$^{3}/_{16}$ inches in diameter) to size 210 (2$^{1}/_{16}$ inches in diameter). These fruits can be shipped from the production areas to any point in the continental United States, Canada, or Mexico. The maturity level of, size composition of, and market demand conditions for these fruits warrant these relaxations.

DATES: The pink seedless grapefruit relaxation is effective for the period October 22, 1987, through August 21, 1988; and the Dancy tangerine relaxation is effective for the period November 30, 1987, through August 21, 1988. Comments which are received by November 27, 1987, will be considered prior to issuance of the final rule.

ADDRESS: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act".

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers of Florida oranges, grapefruits, tangerines, and tangelos subject to regulation under the Florida citrus marketing order, approximately 15,000 orange, grapefruit, tangerine, and tangelo producers in Florida, and approximately 26 importers who import grapefruit into the United States. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers, producers, and importers may be classified as small entities.

The handling regulation for Florida citrus fruit covered under this marketing order is specified in § 905.306 *Florida Orange, Grapefruit, Tangerine, and Tangelo Regulation 6.* This regulation was issued on a continuing basis subject to modification, suspension, or termination by the Secretary. Section 905.306(a) provides that no handler shall ship between the production area and any point outside thereof, in the continental United States, Canada, or Mexico, specified varieties of oranges, grapefruit, tangerines and tangelos unless such varieties meet the minimum grade and size requirements prescribed in Table I. Section 905.305(b) provides that no handler shall ship fruit to any destination outside the continental United States, other than Canada or Mexico, unless the specified varieties meet the requirements prescribed in Table II.

The Citrus Administrative Committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. Committee meetings are open to the public and interested persons may express their veiws at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

The minimum size requirements, specified herein, reflect the committee's and the Department's appraisal of the need to relax the minimum size requirements applicable to domestic and import shipments of pink seedless grapefruit and the minimum size requirement applicable to the domestic shipments of Dancy tangerines. This rule recognizes current and prospective supply and demand for such fruit and is necessary to permit handlers to ship smaller sized fruit to meet market needs. No problems with fruit quality, maturity, and size are expected in the marketplace because of the relaxations.

Some Florida tangerine and grapefruit shipments are exempt from the minimum grade and size requirements effective under the marketing order.

Handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day under a minimum quantity exemption provisions. Also, handlers may ship up to 2 standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale, under the current exemption provisions. Fruit shipped for animal feed is also exempt under specific conditions. In addition, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements.

The rule temporarily relaxes the minimum size requirements for domestic and import shipments of pink seedless grapefruit from size 48 (3 9/16 inches in diameter) to size 56 (3 5/16 inches in diameter). Also, the minimum size requirement for domestic shipments of Dancy tangerines is temporarily relaxed from sizes 176 (2 9/16 inches in diameter) to size 210 (2 4/16 inches in diameter) effective November 30, 1987. The relaxations for grapefruit and tangerines will remain in effect through August 21, 1988 by which time shipments for the 1987–88 season will be finished.

The committee recommended relaxation of the size requirements for grapefruit and tangerines at its September 22, 1987 meeting. It recommended the relaxation for grapefruit be made effective as soon as possible, and that for tangerines be made effective on November 9, 1987. On October 16, 1987, the committee modified its September 22, 1987, recommendation to provide that the relaxation for tangerines be made effective November 30, 1987. The committee indicated that the tangerine crop is not maturing as rapidly as anticipated. The committee believes that grapefruit shipments to Canada could be significantly increased if the size requirement is relaxed early in the season rather than waiting until later in the season as has been the practice in prior years. The committee's recommendation to relax the size requirement for Dancy tangerines follows the practice of prior years of lowering the size requirement when the crop has reached an acceptable level of maturity, flavor and size.

Section 8e of the Act (7 U.S.C. 608e–1) provides that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Since this action relaxes the minimum size requirement for domestically produced pink seedless grapefruit, the relaxation would also be applicable to imported pink seedless grapefruit.

Grapefruit import requirements are specified in § 944.106 (7 CFR Part 944), which requires that the various varieties of grapefruit imported into the United States meet the same grade and size requirements as those specified for Florida grapefruit in Table I of paragraph (a) in § 905.306. Section 944.106 was issued under Section 8e of the Act (7 U.S.C. 608e–1). An exemption provision in the grapefruit import regulation permits persons to import up to 10 standard packed 4/5 bushel cartons exempt from the import requirements.

The relaxation of the minimum size requirement for pink seedless grapefruit and Dancy tangerines is only for the remainder of the 1987–88 shipping seasons for these fruits. The resumption of tighter requirements for 1988–89 season shipments is based upon the maturity, size, quality, and flavor characteristics of these fruits early in the shipping season.

Therefore, the Department's view is that the impact of this action upon producers, handlers, and importers would be beneficial, because it will enable handlers to provide tangerines and grapefruit consistent with buyer requirements. The application of minimum size requirements to Florida grapefruit and tangerines, and to imported grapefruit over the past several years, has resulted in fruit of acceptable size being shipped to fresh markets.

Based on the above, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that the rule as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting his rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes handling requirements currently in effect for Florida grapefruit and Dancy tangerines; (2) handlers of these fruits are aware of this action which was recommended by the committee at a public meeting and they will need no additional time to comply with the requirements; (3) shipment of the 1987–88 season Florida grapefruit crop has begun, and shipment of the Dancy tangerine crop will be well underway by November 30, 1987; (4) the grapefruit import requirements are mandatory under section 8e of the Act; and (5) the rule provides a 30-day comment period, and any comments received will be considered prior to issuance of a final rule.

List of Subjects in 7 CFR Part 905

Marketing agreements and Orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR Part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR Part 905 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. The provisions of § 905.306 are amended by revising the following entries in Table I of paragraph (a), applicable to domestic shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6, Amendment 45.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * * * * * *			
Grapefruit Seedless, pink	10/22/87–8/21/88	Improved No. 2 (External) U.S. No. 1 (Internal)	3 5/16

TABLE I—Continued

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
	On and after 8/22/88	Improved No. 2 (External) U.S. No. 1 (Internal)	3⅜
• •	• • •	• •	
Tangerines, Dancy	11/30/87–8/21/88	U.S. No. 1	2⅛
	On and after 8/22/88	U.S. No. 1	2⅛
• •	• • •	• •	

Dated: October 22, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-24927 Filed 10-27-87; 8:45 am]

BILLING CODE 3410-02-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Organization; Director Compensation; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration published final regulations under Part 611 on September 25, 1987 (52 FR 36012). These regulations relate to compensation of members of Farm Credit System district boards. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is October 28, 1987.

EFFECTIVE DATE: October 28, 1987.

FOR FURTHER INFORMATION CONTACT:

Nancy E. Lynch, Senior Attorney

or

Joanne Ongman, Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4020

(Secs. 5.17 (9) and (10), Pub. L. 92-181, as amended by Pub. L. 99-205, 12 U.S.C. 2252(a)(9)(10))

Dated: October 23, 1987.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 87-24899 Filed 10-27-87; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM-23; Special Conditions No. 25-ANM-15]

Special Conditions; McDonnell Douglas DC-9-80 and MD-80 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.101 of the Federal Aviation Regulations (FAR) to McDonnell Douglas for the Model DC-9-80 and MD-80 series airplanes. These series airplanes will have novel or unusual design features associated with the installation of new electronic systems for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards for protection from the indirect effects of lightning. These special conditions contain the safety standards which the Administrator finds necessary, because of these added design features, to ensure that the functions of these systems, which are critical and essential, are addressed.

EFFECTIVE DATE: November 27, 1987.

FOR FURTHER INFORMATION CONTACT: Gene Vandermolen, Transport Standards Staff, ANM-110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168, telephone (206) 431-2114.

SUPPLEMENTARY INFORMATION:

Background

On March 10, 1986, the Douglas Aircraft Company, 3855 Lakewood Boulevard, Long Beach, California 90846, made an application to the Federal Aviation Administration (FAA), for an amended type certificate for the MD-88 airplane.

The MD-88 is a 172 passenger (maximum), fuel efficient, low noise (Stage 3) MD-80 series derivative with JT8D-217C or JT8D-219 engines. The MD-88F would be the freighter version incorporating the main cabin cargo door and cargo flooring of previously certificated freighters. The MD-88 weights will be the same as those approved for the MD-82, i.e., 150,500 pounds maximum ramp weight (MRW), 149,500 pounds maximum takeoff weight (MTOW), 130,000 pounds maximum landing weight (MLW) and 122,000 pounds maximum zero fuel weight (MZFW).

The overall exterior configuration and the basic airplane structure will be the same as the DC-9-80 and MD-80 series currently being delivered. New electronic systems which will be incorporated in the MD-88 include, for example, a flat panel display for showing engine parameters and another flat panel for displaying failure annunciations. These systems are also expected to become available as options for other DC-9-80 and MD-80 series airplanes. They will also be available for retrofit on in-service airplanes.

Because the current regulations address only structural and fuel tank/fuel vapor ignition lightning protection (direct effects), but do not address lightning indirect effects, protection for electronic control or display systems, special conditions are necessary to provide an equivalent level of safety when compared to traditional designs. These special conditions specify the level of protection required based on the criticality of the function performed by the system. For this reason, these special conditions will be applicable to all of the DC-9-80 and MD-80 series airplanes which incorporate these (or other future) electronic systems, whose functions have been determined to be critical or essential.

Discussion of Comments

Notice of proposed special conditions No. SC-87-3-NM for McDonnell Douglas DC-9-80 and MD-80 series airplanes was published in the **Federal Register** on May 26, 1987 (52 FR 19520). Comments were received from Air

Transport Association of America (ATA) and the applicant.

Both commenters note that the proposed special conditions are intended for new or digital electronic systems, and that this should be clearly indicated. The FAA concurs that the special conditions were intended for "new electronic systems." These words are being added to the text of the special conditions to clarify this intent.

The applicant notes that the background statement in the notice of proposed special conditions recognizes that the level of protection required depends on how critical the function performed is to airworthiness, but the special conditions refer to the failure of systems rather than functions. He points out that a system may perform nonessential functions as well as critical and essential functions; however, the proposed special conditions require that all the system functions must be protected. The applicant proposes special conditions referring to the failure of functions rather than systems, and suggests using definitions for critical functions, essential functions and failure of a system function in the special conditions for clarity.

The FAA agrees with this comment. Special conditions for essential functions proposed by the applicant are adopted, and definitions for "essential function" and "critical functions" are being added for clarification. The special condition for critical functions is being rewritten to clarify the intent. We agree that some systems may perform multiple functions and that failure of some of these functions may not affect the critical functions. The proposed special conditions would require only those parts of the system associated with the critical function to be protected to that level. However, it may be difficult to provide adequate "isolation" and resultant lightning protection to "parts" of an integrated system.

A comment was made that the proposed special conditions are of a general nature and should be more specific as to which systems they apply to and the extent of testing that should be accomplished.

The FAA does not concur that the special conditions should be more specific. These special conditions involve advanced systems, for which there are no adequate lightning protection standards in the regulations. The FAA has intentionally written these special conditions to state an overall safety objective, and not to specify system design. This will allow the applicant latitude in design and testing of these systems. Further guidance on acceptable means of compliance with these special conditions is being developed, and an advisory circular, based on SAE report AE4L-87-3, is being prepared by the FAA that also defines the lightning environment and discusses testing. The extent of the testing that should be accomplished for a particular airplane is determined by the local Aircraft Certification Office after a lightning certification plan has been submitted to the FAA by the applicant.

Type Certification Basis

The type certification basis for the McDonnell Douglas DC-9-80 and MD-80 series airplanes is Part 25 of the FAR effective February 1, 1965, as amended by Amendments 25-1 through 25-40, with certain exceptions which are identified in the Model DC-9 series Airplane Type Certificate No. A6WE. These exceptions are not pertinent to the subject of lightning protection for electronic devices.

Conclusion

This action affects only certain unusual or novel design features on McDonnell Douglas DC-9-80 and MD-80 series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety.

The Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes, in addition to §§ 25.581 and 25.954 for the structure and fuel system, the following special conditions for the McDonnell Douglas DC-9-80 and MD-80 series airplanes incorporating these types of electronic systems.

1. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(q) (Revised Pub L. 97-449, January 12, 1983).

2. Each new electronic system which performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not affected when the airplane is exposed to lightning.

3. Each essential function of new electronic systems must be protected to ensure that the essential function can be recovered after the airplane has been exposed to lightning. For the purpose of these special conditions the following definitions apply:

Critical Functions. Functions whose failure would contribute to or cause a failure condition which would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition which would significantly impact the safety of the airplane or the ability of the flight crew to cope with adverse operating conditions.

Issued in Seattle, Washington, on October 19, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-24903 Filed 10-27-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 21 and 25

[Docket No. NM-22; Special Conditions No. 25-ANM-14]

Special Conditions; Fokker B.V. Model F28 MK0100 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.101 of the Federal Aviation Regulations (FAR) to Fokker B.V., Schiphol, The Netherlands, for an amended type certificate for the Fokker F28 MK0100 airplane. The airplane will have novel or unusual design features associated with digital avionic systems for which the applicable airworthiness regulations do not contain adequate or appropriate lightning protection safety standards. These special conditions contain the safety standards which the Administrator finds necessary, because of these design features, to establish a level of safety equivalent to that established in the regulations.

EFFECTIVE DATE: November 27, 1987.

FOR FURTHER INFORMATION CONTACT: Gene Vandermolen, Transport Standards Staff, ANM-110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2114.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1985, Fokker B.V., 1117 ZJ Schiphol, The Netherlands, made an application to the Federal Aviation Administration (FAA) for an amended type certificate for the Fokker F28

MK0100 airplane. This airplane will have two Rolls-Royce Tay 620–15 high by-pass ratio engines with thrust reversers. Extensive use will be made of composite materials in its construction. The fuselage length will be increased 18.83 feet with plugs forward and aft of the wing. The wing span will be increased 9.8 feet. It will have an increased wing chord and improved aerodynamics with extended leading and trailing edges. The horizontal stabilizer span will be increased 4.6 feet. It will have strengthened landing gear with new wheels and brakes. The passenger count will be increased from 85 to 107. The maximum takeoff weight will be increased from 73,000 pounds to 91,500 pounds, maximum landing weight from 69,500 pounds to 84,500 pounds, and maximum zero fuel weight from 62,000 pounds to 76,500 pounds. The fuel capacity, cruise speed and maximum operating altitude will remain the same.

Included as part of the F28 MK0100 type design will be the following digital electronic systems:

Multi-Function Display (MFDS)
Electronic Flight Instruments (EFIS)
Automatic Flight Control and Augumentation (AFCAS)
Fault Warning Computer (FWC)
Flight Management System (FMS)
Attitude Heading Reference System (AHRS)

These systems, which by their nature operate at low voltage levels, may be particularly vulnerable to transients such as the indirect effects of a lightning strike to the airplane. Because the current regulations address structural and fuel tank/fuel vapor ignition lightning protection but do not address lightning protection for electronic systems, special conditions are necessary to provide installation and safety requirements to ensure adequate protection of these systems from lightning. These special conditions specify the level of protection required based on the criticality of the function performed by the system.

Discussion of Comments

Notice of proposed special conditions No. SC–87–2–NM for the Fokker B.V. Model F28 MK0100 airplane was published in the **Federal Register** on May 8, 1987 (52 FR 17410). The only public comments received were from Air Transport Association of America (ATA).

A comment was made that the special conditions are of a general nature and should be more specific as to which systems they apply to and the extent of testing that should be accomplished.

The FAA does not concur that the special conditions should be more specific. These special conditions involve advanced systems, for which there are no adequate lightning protection standards in the regulations. The FAA has intentionally written these special conditions to state an overall safety objective, and not to specify system design. This will allow the applicant latitude in design and testing of these systems. Further guidance on acceptable means of compliance with these special conditions is being developed, and an advisory circular, based on SAE report AE4L–87–3, is being prepared by the FAA that also defines the lightning environment and discusses testing. The extent of the testing that should be accomplished for a particular airplane is determined by the local Aircraft Certification Office after a lightning certification plan has been submitted to the FAA by the applicant.

The commenter also thinks that paragraph 3 is extremely vague and could be construed to mean a multitude of systems.

The FAA agrees with this comment and is rewriting both paragraphs 2 and 3 to clarify that the lightning protection requirements apply to new electronic systems which perform critical and essential functions. Definitions for critical and essential functions are also being added to clarify the intent of the special conditions.

Type Certification Basis

The proposed type certification basis for the Fokker F28 MK0100 airplane is:

1. Part 25 of the Federal Aviation Regulations (FAR) dated February 1, 1965, as amended by Amendments 25–1 through 25–56, 25–58 and 25–59, except for the following sections which will be certified to earlier amendments as noted: § 25.109, Amendment 25–41; § 25.631 (§ 25.631 did not exist prior to Amendment 25–23); § 25.783, Amendment 25–53; and § 25.1309, Amendment 25–22 (for unmodified systems).

2. Part 36 of the FAR in effect at the time the amended type certificate is issued.

3. Special Federal Aviation Regulations (SFAR) 27 with amendments in effect at the time the amended type certificate is issued.

4. Equivalent safety findings for § 25.777(e) (Flap handle location), § 25.781 (Flap handle shape), § 25.1103(e) (APU installation—fire proof inlet duct), and § 25.901(d) (APU installation—instruments).

5. Any special conditions issued.

6. Any exemptions issued.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued for the Fokker F28 MK0100 airplane:

1. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. Each new electronic system which performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not affected when the airplane is exposed to lightning.

3. Each essential function of new electronic systems must be protected to ensure that the essential function can be recovered after the airplane has been exposed to lightning.

For the purpose of these special conditions the following definitions apply:

Critical Functions. Functions whose failure would contribute to or cause a failure condition which would prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition which would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Issued in Seattle, Washington, on October 19, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–24904 Filed 10–27–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 21 and 25

[Docket No. NM-21; Special Conditions No. 25-ANM-13]

Special Conditions; Fokker B.V. Model F27 MK050 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.101 of the Federal Aviation Regulations (FAR) to Fokker B.V., Schiphol, The Netherlands, for an amended type certificate for the Fokker F27 MK050 airplane. The airplane will have novel or unusual design features associated with engine and propeller electronic controllers for which the applicable airworthiness regulations do not contain adequate or appropriate lightning protection safety standards. These special conditions contain the safety standards which the Administrator finds necessary, because of these design features, to establish a level of safety equivalent to that established in the regulations.

EFFECTIVE DATE: November 27, 1987.

FOR FURTHER INFORMATION CONTACT: Gene Vandermolen, Transport Standards Staff, ANM-110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2114.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1985, Fokker B.V., 1117 ZJ Schiphol, The Netherlands, made an application to the Federal Aviation Administration (FAA), for an amended type certificate for the Fokker F27 MK050 airplane. The MK050 is a high wing, pressurized transport category airplane with a certificated takeoff gross weight of 41,865 pounds (optional 45,900 pounds). The airplane has a maximum permissible altitude of 25,000 feet and a total occupancy of 50 persons. It will be equipped with two Pratt and Whitney of Canada Model PW-124 engines each rated at 2,400 shaft horsepower for maximum takeoff power at sea level standard day, and Dowty-Rotol 6-bladed constant speed propellers. The engines and propeller systems utilize digital electronic controllers. In addition, a digital Integrated Alerting System will be installed as part of the basic configuration. Because the current regulations address structural and fuel tank/fuel vapor ignition lightning protection but do not address lightning protection for electronic control systems, special conditions are necessary to provide an equivalent level of safety when compared to traditional designs. These special conditions specify the level of protection required based on the criticality of the function performed by the system.

Discussion of Comments

Notice of proposed special conditions No. SC-87-1-NM for the Fokker B.V. Model F27 MK050 airplane was published in the **Federal Register** on May 8, 1987 (52 FR 17409). The only public comments received were from Air Transport Association of America (ATA).

A comment was made that the special conditions are of a general nature and should be more specific as to which systems they apply to and the extent of testing that should be accomplished.

The FAA does not concur that the special conditions should be more specific. These special conditions involve advanced systems, for which there are no adequate lightning protection standards in the regulations. The FAA has intentionally written these special conditions to state an overall safety objective, and not to specify system design. This will allow the applicant latitude in design and testing of these systems. Further guidance on acceptable means of compliance with these special conditions is being developed, and an advisory circular, based on SAE report AE4L-87-3, is being prepared by the FAA that also defines the lightning environment and discusses testing. The extent of the testing that should be accomplished for a particular airplane is determined by the local Aircraft Certification Office after a lightning certification plan has been submitted to the FAA by the applicant.

The commenter also thinks that paragraph 3 is extremely vague and could be construed to mean a multitude of systems.

The FAA agrees with this comment and is rewriting both paragraphs 2 and 3 to clarify that the lightning protection requirements apply to new electronic systems which perform critical and essential functions. Definitions for critical and essential functions are also being added to clarify the intent of the special conditions.

Type Certification Basis

The proposed type certification basis for the Fokker F27 MK050 airplane is:

1. Part 25 of the Federal Aviation Regulations (FAR) dated February 1, 1965, as amended by Amendments 25-1 through 25-56, 25-58 and 25-59, except for the following sections which will be certified to earlier amendments as noted: § 25.109, Amendment 25-41; § 25.631 (§ 25.631 did not exist prior to Amendment 25-23); § 25.671(c)(3), Amendment 25-22; § 25.701, Amendment 25-22; and § 25.1309, Amendment 25-22.

2. The automatic flight control system will comply with § 25.1309 as amended by Amendment 25-56.

3. Part 36 of the FAR with amendments in effect at the time the amended type certificate is issued.

4. Special Federal Aviation Regulations (SFAR) 27 with amendments in effect at the time the amended type certificate is issued.

5. Equivalent safety findings for § 25.777(e) (Flap handle location), § 25.781 (Flap handle shape), and § 25.729(e)(4) (Landing gear position indicator and warning device).

6. Any special conditions issued.

7. Any exemptions issued.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued for the Fokker F27 MK050 airplane:

1. The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub L. 97-449, January 12, 1983).

2. Each new electronic system which performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not affected when the airplane is exposed to lightning.

3. Each essential function of new electronic systems must be protected to ensure that the essential function can be recovered after the airplane has been exposed to lightning.

For the purpose of these special conditions the following definitions apply:

Critical Functions. Functions whose failure would contribute to or cause a failure condition which would prevent

the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failure would contribute to or cause a failure condition which would significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Issued in Seattle, Washington, on October 19, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-24905 Filed 10-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-82-AD; Amdt. 39-5757]

Airworthiness Directives; British Aerospace Viscount Model 700, 800, and 810 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Viscount Model 700, 800, and 810 series airplanes, which requires eddy current and visual inspections of the rib and wing upper surface at wing station 257. This amendment is prompted by three reports of cracks. This problem has been attributed to fatigue cracking. This condition, if not corrected, could result in failure of the wing.

EFFECTIVE DATES: December 9, 1987.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, Seattle Aircraft Certification Office, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires eddy current and visual inspections of the rib and wing upper surface at wing station 257 on all Viscount Model 700, 800, and 810 series airplanes, was published in the **Federal Register** on July 29, 1987 (52 FR 28272).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the NPRM.

After review of the available data, the FAA has determined that air safety and the public interest require the adoption of the following rule.

It is estimated that 12 airplanes of U.S. registry will be affected by this AD, that it will take approximately 60 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $28,800.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because of the minimal cost of compliance per airplane ($2,400). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to all Model Viscount 700/800/810 series airplanes which have accumulated more than 10,000 landings, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the wing due to cracking, accomplish the following:

A. Before further flight:

1. Visually inspect the wing upper surface and end rib in accordance with applicable British Aerospace Preliminary Technical Leaflet No. 185 or No. 316, both dated October 23, 1986. Repeat this inspection at intervals not to exceed 25 landings.

2. Perform eddy current inspection of the wing in accordance with applicable British Aerospace Preliminary Technical Leaflet No. 185 or No. 316, both dated October 23, 1986. Repeat this inspection at intervals not to exceed 1,500 landings.

B. Any cracks found as a result of the inspections required by paragraph A., above, must be repaired prior to further flight in a manner approved by the FAA.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

D. Eddy current inspections may be deferred for 15,000 landings after incorporation of Modification D3292 or Modification FG2172 as applicable.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This Amendment becomes effective December 9, 1987.

Issued in Seattle, Washington, on October 20, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-24902 Filed 10-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 87-ACE-3]

Alteration of Jet Routes, Iowa; Delay of Effective Date

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This action postpones the effective date of amendments to two jet routes located in the vicinity of Iowa City, IA. The date of implementation for Jet Routes J-10 and J-192 has been postponed from November 19, 1987, to January 14, 1988. This action is taken for the purposes of internal administration and for coordination of these amendments with other related airspace actions on the east coast.

EFFECTIVE DATE: 0901 U.t.c., January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

A final rule Docket 87-ACE-3 published in the **Federal Register** on September 18, 1987 (52 FR 35236) with an effective date of November 19, 1987, implemented modifications to Jet Routes J-10 and J-192. However, due to internal administrative considerations, and in order to permit sufficient time for coordination of these amendments with other related airspace actions, the effective date has been changed to January 14, 1988.

Issued in Washington, DC, on October 20, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-24901 Filed 10-27-87; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1206

Availability of Agency Records to Members of the Public

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This action revises Part 1206, "Availability of Agency Records to Members of the Public," to implement the provisions regarding fees and fee waivers of the Freedom of Information Reform Act (FOIRA) of 1986 (Pub. L 99-570). The Freedom of Information Reform Act permits agencies to charge for the direct costs of providing FOIA services such as search, duplication, and, in certain cases, review. NASA interprets this "direct cost" provision to mean the actual costs incurred in operating its FOIA program. This rule also changes some of the titles and duties of officials in Subpart 5, Responsibilities, to conform to a reorganization of NASA Headquarters.

EFFECTIVE DATE: November 27, 1987.

ADDRESS: Freedom of Information Act Officer, Code LN, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Patricia M. Riep, 202/453-8346 or Elizabeth N. Siegel, 202/453-2465.

SUPPLEMENTARY INFORMATION: An interim rule with comments invited was published on May 20, 1987. This final rule takes effect and supersedes the interim rule.

Record search fees are established on a three-tier schedule based upon the hourly salary of the person ordinarily expected to do the work, plus 16 percent for benefits. The clerical schedule is based, generally, on the hourly salary of a person at GS-6 step 1, which is approximately the same as GS-5 step 4 and GS-4 step 9. The professional schedule is based, generally, on the hourly salary of a person at GS-12 step 1, which is approximately the same as GS-11 step 7 and GS-10 step 10. The legal review schedule is based generally on the hourly salary of a person at GS-13 step 5.

NASA received three comments, one from an association of journalist and two from other public interest groups.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

Section-by-Section Analysis

Section 1206.101 Definitions.

(1) Several commentators urged NASA to narrow the definition of "commercial use request." NASA has left the definition the same as that in the Office of Management and Budget (OMB) guidance (52 FR 10012-10020), but has added a sentence at the end which makes a presumption that a request from a corporation is for commercial use unless otherwise domonstrated.

Section 1206.102 General policy.

(b) Paragraph (b) has been revised by adding Pub. L. 99-570 to the list of laws that have amended the Freedom of Information Act.

Section 1206.500 Responsibilities.

As a result of a NASA Headquarters reorganization, the position responsible for overall FOIA policy and procedures and the making of final determinations is now called the Associate Deputy Administrator (Policy). The former position, Associate Deputy Administrator, was abolished. In this reorganization, the Headquarters FOIA Officer position and function was transferred from the Director, Management Support Division, Office of External Relations, to the Associate Administrator for Communications. Thus all the activities associated with initial determinations, Headquarters FOIA procedures, and preparing the annual report have been transferred to the Associate Administrator for Communications.

Section 1206.601 Mail requests.

(c) Concerning the sending of fees, NASA has changed the sentence, "cash or stamps should not be sent by mail" to "NASA cannot be responsible for cash sent by mail; stamps will not be accepted." This makes our policy on cash and stamps more precise.

Section 1206.603 Procedures and time limits for initial determinations.

(c) NASA has changed paragraph (c) to go along with OMB's definition of advance payments. When the fee is over $250, the requester will always be sent the initial determination and bill for the fee. When the fee is under $250, the requester will usually be sent the initial determination and a bill for the fee. Upon receipt of the fee, NASA will mail the documents. When a fee is under $250 and in the case of a requester with a history of prompt payment, NASA may mail the records with the initial determination and the bill. When this occurs, the letter will state that interest will be charged from the 31st day after the date of the response.

Subpart 7

The title "Search and Duplication Fees" was changed to "Search, Review and Duplication Fees" to be more descriptive.

Section 1206.700 Schedule of fees.

(a) The word "blueprints" was transferred from a list of oversize documents that cost $0.15 a copy, to the group of items for which full direct costs will be charged. This is because blueprints must usually be provided by the architectural contractor who charges NASA more than $0.15 a copy. The list of items in this latter group was expanded to include "engineering drawings, hard copies of aperture cards," and other items which normally cost more than $0.15 a copy and which are provided by contractors.

(d) This is a new paragraph (d), formerly paragraph (h) in the interim regulation. It deals with review of records and is more logically placed in subpart 7 as paragraph (d). We have changed the quarter-hour rate for review by an attorney from $5.50 to $6.25. The

hourly rate of $25 stands for an hourly salary of $21 plus 16 percent benefits. This correlates approximately with the hourly salary of GS–13 step 5 and is under by almost one dollar per hour the hourly salary of a GS–14 step 1. Since the majority of NASA attorneys are GS–13's, 14's and 15's, we felt this rate better reflected the salary of the person likely to be reviewing FOIA records.

The paragraph letters of former paragraphs (d) through (g) change to (e) through (h).

In paragraph (g), formerly paragraph (f), "Charges for Special Services," NASA has decided to charge the full cost for "packaging and mailing bulky records that will not fit into the largest envelope carried in the supply inventory." This language will be added as paragraph (g)(3).

Section 1206.701 Categories of requesters.

In paragraph (c) NASA has changed the phrase "a request must meet the criteria in § 1206.101(o)" to "a request must demonstrate that he/she meets the criteria in § 1206.701(o)." This clarifies that the requester has the burden of showing that he/she is a representative of the news media.

Section 1206.702 Waiver or reduction of fees.

This section is based on the Department of Justice's "New Fee Waiver Guidance" dated April 2, 1987. NASA has added an introductory sentence that states that the requester always has the burden of producing evidence that would qualify him/her for a fee waiver or reduction.

Section 1206.704 Advance payments.

NASA has rewritten the Advance Payments section to follow OMB's definition; that is, that advance payment is payment before work is begun or continued on a request.

List of Subjects in 14 CFR Part 1206

Freedom of Information, Information.

For reasons set out in the Preamble, 14 CFR Part 1206 is revised to read as follows:

PART 1206—AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

Authority: Sec. 203, National Aeronautics and Space Act of 1958, as amended, 72 Stat. 429, 42 U.S.C. 2473 and 5 U.S.C. 552 as amended by Pub. L. 93–504, 88 Stat. 1561, Pub. L. 99–570, unless otherwise noted; the Privacy Act of 1974, 5 U.S.C. 552a.

Subpart 1—Basic Policy

§ 1206.100 Scope of part.

This Part 1206 establishes the policies, responsibilities, and procedures for the release to members of the public of agency records which are under the jurisdiction of the National Aeronautics and Space Administration. This part applies to information and agency records located at NASA Headquarters, at NASA Field Installations, and at NASA component installations, as defined in Part 1201 of this chapter.

§ 1206.101 Definitions.

For the purposes of this part, the following definitions shall apply:

(a) The term "agency records" or "records" includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by NASA in pursuance of Federal law or in connection with the transaction of public business and preserved by NASA as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities or because of the informational value of data contained therein. It does not include tangible objects or articles, such as structures, furniture, paintings, sculptures, exhibits, models, vehicles or equipment; library or museum material made or acquired and preserved solely for reference or exhibition purposes; or records of another agency, a copy of which may be in NASA's possession.

(b) The term "initial determination" means a decision by a NASA official, in response to a request by a member of the public for an agency record, on whether the record described in the request can be identified and located after a reasonable search and, if so, whether the record (or portions thereof) will be made available under this part or will be withheld from disclosure under Subpart 3 of this part.

(c) The term "appeal" means a request by a member of the public to the Administrator or designee, or, in the case of records as specified in § 1206.504, to the Inspector General or designee for reversal of any adverse initial determination the requestor has received in response to a request for an agency record.

(d) The term "final determination" means a decision by the Administrator or designee, or, in the case of records as specified in § 1206.504, by the Inspector General or designee on an appeal.

(e) The term "working days" means all days except Saturdays, Sundays and legal public holidays.

(f) As used in § 1206.608, the term "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of a particular request for agency records—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the NASA Information Center processing the request (see Subpart 6 of this part for procedures for processing a request for agency records);

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of NASA having substantial subject-matter interest therein.

(g) A "statute specifically providing for setting the level of fees for particular types of records" (5 U.S.C. 552(a)(4)(A)(vi)) means any statute that specifically requires a government agency to set the level of fees for particular types of records in order to:

(1) Serve both the general public and private sector organizations by conveniently making available government information;

(2) Ensure that groups and individuals pay the cost of publications and other services which are for their special use so that these costs are not borne by the general taxpaying public;

(3) Operate an information dissemination activity on a self-sustaining basis to the maximum extent possible; or

(4) Return revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating government information.

(h) The term "direct costs" means those expenditures which NASA actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to an FOIA request. Direct costs include, for example, the salary of the employee who would ordinarily perform the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space and heating or lighting the facility in which the records are stored.

(i) The term "search" includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. NASA will ensure that searching for material is done in the most efficient, least expensive manner so as to minimize costs for both the agency and the requester and will only utilize line-by-line, page-by-page search when consistent with this policy. "Search" should be distinguished, however, from "review" of material in order to determine whether the material is exempt from disclosure (see paragraph (k) of this section). Searches may be done manually or by computer using existing programming.

(j) The term "duplication" refers to the process of making a copy of a document in order to respond to an FOIA request. Such copies can take the form of paper copy, microfilm, audio-visual materials, or machine-readable documentation (e.g., magnetic tape or disk), among others.

(k) The term "review" refers to the process of examining documents located in response to a commercial use request (see paragraph (l) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(l) The term "commercial use request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade or profit interests of the request or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, NASA will look first to the use to which a requester will put the documents requested. Where NASA has reasonable cause to doubt the use to which a requester will put the records sought or where that use is not clear from the request itself, NASA will seek additional clarification before assigning the request to a specific category. A request from a corporation (not a "news media" corporation) may be presumed to be for commercial use unless the requester demonstrates that it qualifies for a different fee category.

(m) The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(n) The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (1) of this section, and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(o) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but agencies may also look to the past publication record of a requester in making this determination.

§ 1206.102 General policy.

(a) In accordance with section 203(a)(3) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(a)(3)), it has been and continues to be NASA policy to provide for the "widest practicable and appropriate dissemination of information concerning its activities and the results thereof."

(b) In compliance with the "Freedom of Information" amendments to the Administrative Procedure Act (5 U.S.C. 552, as amended by Public Laws 90–23, 93–502 and 99–570), a positive and continuing obligation exists for NASA to make available upon request by members of the public to the fullest extent practicable, all agency records under its jurisdiction, as described in Subpart 2 of this part, except to the extent that they may be exempt from disclosure under Subpart 3 of this part.

Subpart 2—Records Available

§ 1206.200 Types of records to be made available.

(a) Records required to be published in the **Federal Register.** The following records are required to be published in the **Federal Register,** for codification in Title 14, Chapter V, of the CFR.

(1) Description of NASA Headquarters and field organization and the established places at which, the employees from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(2) Statements of the general course and method by which NASA's functions are channeled and determined, including the nature, and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by NASA;

(5) Each amendment, revision, or repeal of the foregoing.

(b) *Agency opinions, orders, statements, and manuals.* (1) Unless they are exempt from disclosure under Subpart 3 of this part, or unless they are promptly published and copies offered for sale, NASA shall make available the following records for public inspection and copying or purchase:

(i) All final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, such as opinions of the NASA Board of Contract Appeals;

(ii) Those statements of NASA policy and interpretations which have been adopted by NASA and are not published in the **Federal Register;**

(iii) Administrative staff manuals (or similar issuances) and instructions to staff that affect a member of the public.

(2) In connection with all records required to be made available or published under this paragraph (b), identifying details shall be deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. However, in each case the justification for the deletion shall be explained fully in writing. A copy of such justification shall be attached to the front of the portion of the record made available to the requester.

(3) In connection with all records required to be made available or published under this paragraph (b) which are issued, adopted, or promulgated after July 4, 1967, except to the extent they are exempt from disclosure under Subpart 3 of this part, current indexes providing identifying information will be maintained and made available for public inspection and copying or purchase (see § 1206.402).

(c) *Other agency records.* In addition to the records made available or published under paragraphs (a) and (b) of this section, NASA shall, upon request for other records made in accordance with this part, make such records promptly available to any person, unless they are exempt from disclosure under Subpart 3 of this part, or unless they may be purchased from other readily available sources, as provided in § 1206.201.

§ 1206.201 Records which have been published.

Publication in the **Federal Register** is a means of making certain agency records available to the public. Also, the Commerce Business Daily, Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards (Department of Commerce) is a source of information concerning agency records or actions. Various other NASA publications and documents, and indexes thereto, are available from other sources, such as the U.S. Superintendent of Documents, the National Technical Information Service (Department of Commerce), and the Earth Resources Observation Systems (EROS) Data Center (Department of the Interior). Such publications and documents are not required to be made available or reproduced in response to a request therefor unless they cannot be purchased readily from available sources. If a publication or document is readily available from a source other than NASA, the requester shall be informed of the procedures to follow to obtain the publication or document.

§ 1206.202 Deletion of segregable portions of a record.

If a record requested by a member of the public contains both information required to be made available and that which is exempt from disclosure under Subpart 3 of this part, and the portion of the records that is required to be made available is reasonably segregable from the portion that is exempt, the portion that is exempt from disclosure shall be deleted and the balance of the record shall be made available to the requester. If the non-exempt portion of the record appears to be unintelligible or uninformative, the requester shall be informed of that fact, and such non-exempt portion shall not be sent to the requester unless he thereafter specifically requests it.

§ 1206.203 Creation of records.

Records will not be created by compiling selected items from the files at the request of a member of the public, nor will records be created to provide the requester with such data as ratios, proportions, percentages, frequency distributions, trends, correlations, or comparisons.

§ 1206.204 Records of interest to other agencies.

If a NASA record is requested and another agency has a substantial interest in the record, such an agency shall be consulted on whether the record shall be made available under this part (see § 1206.101(f)(3)). If a record is requested that is a record of another agency, the request shall be returned to the requester, as provided in § 1206.604(c).

§ 1206.205 Incorporation by reference.

Matter which is reasonably available to the members of the public affected thereby shall be deemed published in the **Federal Register** when incorporated by reference in material published in the **Federal Register** (pursuant to the **Federal Register** regulation on incorporation by reference, 1 CFR Part 51).

§ 1206.206 Availability for copying.

Except as provided in § 1206.201, the availability of a record for inspection shall include the opportunity to extract information therefrom or to purchase copies.

§ 1206.207 Copies.

The furnishing of a single copy of the requested record will constitute compliance with this part.

§ 1206.208 Release of exempt records.

If a record which has been requested is exempt from disclosure under Subpart 3 of this part, the record may nevertheless be made available under the procedures of Subpart 6 of this part if it is determined by an official authorized to make either an initial determination or a final determination that such action would not be inconsistent with a purpose of the exemptions set forth in Subpart 3 of this part.

Subpart 3—Exemptions

§ 1206.300 Exemptions.

(a) Under 5 U.S.C. 552(b) agency records falling within the exemptions of paragraph (b) of this section are not

required to be made available under this part. Such records may nevertheless be made available if it is determined that such actions would not be inconsistent with a purpose of the exemption (see § 1206.208).

(b) The requirements of this part to make agency records available do not apply to matters that are—

(1)(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of NASA;

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with NASA;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

(A) Could reasonably be expected to interfere with enforcement proceedings,

(B) Would deprive a person of a right to a fair trial or an impartial adjudication,

(C) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(D) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

(E) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(F) Could reasonably be expected to endanger the life or physical safety of any individual.

Whenever a request is made which involves access to records described in subsection (b)(7)(A) and—

(A) The investigation or proceeding involves a possible violation of criminal law; and

(B) There is reason to believe that (i) The subject of the investigation or proceeding is not aware of its pendency, and

(ii) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

§ 1206.301 Limitation of exemptions.

(a) This Part 1206 does not authorize the withholding of information or the availability of records to the public, except as specifically stated in this part.

(b) Nothing in this part shall be construed as authority to withhold information from Congress.

Subpart 4—Location for Inspection and Request of Agency Records

§ 1206.400 Information centers.

NASA will maintain Information Centers as set forth in this subpart.

§ 1206.401 Location of NASA information centers.

NASA will maintain the following Information Centers, at which agency records may be inspected, from which copies of agency records may be requested and at which copies of agency forms may be obtained:

(a) NASA Headquarters Information Center, National Aeronautics and Space Administration, Washington, DC 20546.

(b) NASA Information Center, Ames Research Center, Moffett Field, CA 94035.

(c) NASA Information Center, Hugh L. Dryden Flight Research Center, Post Office Box 273, Edwards, CA 93523.

(d) NASA Information Center, Goddard Space Flight Center, Greenbelt, MD 20771.

(e) NASA Information Center, John F. Kennedy Space Center, Kennedy Space Center, FL 32899.

(f) NASA Information Center, Langley Research Center, Langley Station, Hampton, VA 23365.

(g) NASA Information Center, Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135.

(h) NASA Information Center, Lyndon B. Johnson Space Center, Houston, TX 77058.

(i) NASA Information Center, George C. Marshall Space Flight Center, Huntsville, AL 35812.

(j) NASA Information Center, National Space Technology Laboratories, Bay St. Louis, MS 39520.

(k) NASA Information Center, NASA Resident Procurement Office (JPL), 4800 Oak Grove Drive, Pasadena, CA 91103.

(l) NASA Information Center, Wallops Flight Center, Wallops Island VA 23337.

§ 1206.402 Documents available for inspection at NASA information centers.

(a) Each NASA Information Center will have available for inspection, as a minimum, a current version of the following documents:

(1) The Freedom of Information Act (5 U.S.C. 552, as amended by Pub. L 90–23 and Pub L. 93–502);

(2) Title 14, Chapter V, and Title 41, Chapter 18, Code of Federal Regulations, and material published in the **Federal Register** for codification but not yet included in the Code of Federal Regulations;

(3) A master list and index of NASA Issuances, and a copy of all such issuances;

(4) A list and index of the management issuances of the NASA installation at which the Information Center is located, and a copy of such issuances;

(5) NASA's Scientific and Technical Aerospace Reports (STAR) and current indexes thereto;

(6) Cumulative Index to Selected Speeches and News Releases issued by NASA Headquarters;

(7) Index/Digest of Decisions, NASA Board of Contract Appeals;

(8) Decisions of the NASA Contract Adjustment Board and a current index thereto;

(9) NASA Handbook NHB 5500.1A containing an index to decisions of the NASA Inventions and Contributions Board on Petitions for Patent Waivers;

(10) Copies of Environmental Impact Statements filed by NASA under the National Environmental Policy Act of 1969;

(11) Collection of all issues of "NASA Activities"; and

(12) List of licenses granted under NASA-owned patents.

(b) Because the indexes listed in paragraph (a) of this section are voluminous and because current versions thereof will be available for inspection at NASA Information Centers, from which copies of the indexes may be requested under § 1206.603, it is determined and so ordered that publication of the indexes quarterly in the **Federal Register** would be unnecessary and impractical.

§ 1206.403 Duty hours.

The NASA Information Centers listed in § 1206.401 shall be open to the public during all regular workdays, from 9 a.m. to 4 p.m.

Subpart 5—Responsibilities

§ 1206.500 Associate Deputy Administrator (Policy).

Except as otherwise provided in § 1206.504, the Associate Deputy Administrator (Policy) is responsible for the following:

(a) Providing overall supervision and coordination of the implementation of the policies and procedures set forth in this Part 1206;

(b) After consultation with the General Counsel, making final determinations under § 1206.607, within the time limits specified in Subpart 6 of this part;

(c) Determining whether unusual circumstances exist under § 1206.608 as would justify the extension of the time limit for a final determination.

§ 1206.501 General Counsel.

The General Counsel is responsible for the interpretation of 5 U.S.C. 552 and of this part, and for the handling of litigation in connection with a request for an agency record under this part.

§ 1206.502 Field and component installations.

(a) Except as otherwise provided in § 1206.504, the Director of each NASA Installation or the Official-in-Charge of each Component Installation is responsible for the following:

(1) After consultation with the Chief Counsel or the Counsel charged with providing legal advice to a Field or a Component Installation, making initial determinations under § 1206.603 and § 1206.604;

(2) Determining whether unusual circumstances exist under § 1206.608 as would justify the extension of the time limit for an initial determination; and

(3) In coordination with the Associate Deputy Administrator (Policy), ensuring that requests for agency records under the cognizance of his/her respective installation are processed and initial determinations made within the time limits specified in Subpart 6 of this part.

(b) If so designated by the Director or Official-in-Charge of the respective installation, the principal Public Affairs Officer at the installation may perform the functions set forth in paragraphs (a)(1) and (2) of this section.

§ 1206.503 NASA Headquarters.

(a) Except as otherwise provided in § 1206.504, the Associate Administrator for Communications, is responsible for the following:

(1) Preparing the annual reports required by § 1206.900, including establishing reporting procedures throughout NASA to facilitate the preparation of such reports;

(2) After consultation with the Office of General Counsels, making initial determinations under § 1206.603 and § 1206.604;

(3) Determining whether unusual circumstances exist under § 1206.608 as would justify the extension of the time limit for an initial determination; and

(4) In coordination with the Associate Deputy Administrator (Policy), ensuring that requests for agency records under the cognizance of Headquarters are processed and initial determinations made within the time limits specified in Supart 6 of this part.

(b) The functions set forth in paragraphs (a)(1), (2) and (3) of this section may be delegated by the Associate Administrator for Communications to a Public Affairs Officer or Specialist and to the Manager of his/her designee, NASA Resident Procurement Office—JPL.

§ 1206.504 Inspector General.

(a) The Inspector General or designee is responsible for making final determinations under § 1206.607 within the time limits specified in Subpart 6 of this part, with respect to audit and investigative documents originating in the Office of the Inspector General, documents from outside the Government related to an audit or investigation, documents prepared in response to a request from or addressed to the Office of the Inspector General, or other documents originating within the Office of the Inspector General, after consultation with the General Counsel or designee on an appeal of an initial determination to the Inspector General.

(b) The Assistant Inspectors General or their designees are responsible for making initial determinations under § 1206.603 and § 1206.604 with respect to audit and investigative documents originating in the Office of the Inspector General, documents from outside the Government related to an audit or investigation, documents prepared in response to a request from or addressed to the Office of the Inspector General, or other documents originating with the Office of the Inspector General, after consultation with the Attorney-Advisor to the Inspector General or designee.

(c) The Inspector General or designee is responsible for ensuring that requests for agency records as specified in paragraphs (a) and (b) of this section are processed and initial determinations are made within the time limits specified in Subpart 6 of this part.

(d) The Inspector General or designee is responsible for determining whether unusual circumstances exist under § 1206.608 as would justify the extension of the time limit for an initial or final determination, for records as specified in paragraphs (a) and (b) of this section.

(e) Records as specified in paragraphs (a) and (b) of this section include any records located at Regional Inspector General Offices as well as records located at the Headquarters Office of the Inspector General.

§ 1206.505 Delegation of authority.

Authority necessary to carry out the responsibilities specified in this subpart is delegated from the Administrator to the officials named in this subpart.

Subpart 6—Procedures

§ 1206.600 Requests for records.

A member of the public may request an agency record by mail or in person from the Information Center having cognizance over the record requested or from the NASA Headquarters Information Center.

§ 1206.601 Mail requests.

In view of the time limits under 5 U.S.C. 552(a)(6) for an initial determination on a request for an agency record (see § 1206.603), a request by mail must meet the following requirements:

(a) The request must be addressed to an appropriate NASA Information Center (see § 1206.401) or otherwise be clearly identified on the envelope and in the letter as a request for an agency record under the "Freedom of Information Act".

(b) The request must identify the record requested or reasonably describe it in such a manner as to enable a professional NASA employee who is familiar with the subject area of the request to identify and locate the record with a reasonable amount of effort. NASA need not comply with a blanket or categorical request (such as "all matters relating to" a general subject) where it is not feasible reasonably to determine what is sought. NASA will in good faith endeavor to identify and locate the record sought and will consult with the requester when necessary and appropriate for that purpose. However, as provided in § 1206.203, NASA will undertake no obligation to compile or create information or records not already in existence at the time of the request.

(c) If a fee is chargeable under Subpart 7 of this part for search or duplication costs incurred in connection with a request for an agency record, and the requester knows the amount of the fee at the time of the request, the request should be accompanied by a check or money order payable in that amount to the "National Aeronautics and Space Administration." NASA cannot be responsible for cash sent by mail; stamps will not be accepted. If the amount of the fee chargeable is not known at the time of the request, the requester will be notified in the initial determination (or in a final determination in the case of an appeal) of the amount of the fee chargeable (see § 1206.608(c)). For circumstances in which advance payment of fees is required, see § 1206.704.

§ 1206.602 Requests in person.

(a) A member of the public may request an agency record in person at a NASA Information Center (see § 1206.401) during the duty hours of the center.

(b) A request at an Information Center must identify the record requested or reasonably describe it as provided in § 1206.601(b).

(c) If the record requested is located at the Information Center or otherwise readily obtainable, it shall be made available to the requester upon the payment of any fees that are chargeable (see Subpart 7 of this part), which fees may be paid in cash or by a check or money order payable to the "National Aeronautics and Space Administration." If the record requested is not located at the Information Center or otherwise readily obtainable, the request will be docketed at the Information Center and processed in accordance with the procedures in §§ 1206.603 and 1206.604, with any fee chargeable being handled in accordance with § 1206.601(c).

§ 1206.603 Procedures and time limits for initial determinations.

(a) Except as provided in § 1206.608, an initial determination on a request for an agency record, addressed in accordance with § 1206.601(a) or made in person at a NASA Information Center, shall be made, and the requester shall be sent notification thereof, within ten working days after receipt of the request, as required by 5 U.S.C. 552(a)(6).

(b) An initial determination on a request for an agency record by mail not addressed in accordance with § 1206.601(a) shall be made, and the requester shall be sent notification thereof, within ten working days after the correspondence is recognized as a request for an agency record under the "Freedom of Information Act" and received by the appropriate NASA Information Center. With respect to such a request, unless an initial determination can reasonably be made within ten working days of the original receipt, the request will be promptly acknowledged and the requester notified of the date the request was received at that Information Center and that an initial determination on the request will be made within ten working days of that date.

(c) If it is determined that the requested record (or portion thereof) will be made available, and if the charges are under $250, NASA will either send a copy of the releasable record and a bill for the fee or send the initial determination and a bill for the fee to the requester. In the latter case the documents will be released when the fee is received. If the fee chargeable is over $250, a request for payment of the fee will always be sent with the initial determination, and the records will be mailed only upon receipt of payment. When records are sent before payment is received, the fact that interest will be charged from the 31st day after the day of the response shall be stated in the response. The date of the mailing of an initial determination, with or without the record(s), shall be deemed to satisfy the time limit for initial determinations.

(d) Any notification of an initial determination that does not comply fully with the request for an agency record shall include a statement of the reasons for the adverse determination, include the name and title of the person making the initial determination, and notify the requestor of the right to appeal to the Administrator, or the Inspector General, as appropriate, under § 1206.605.

§ 1206.604 Request for records which exist elsewhere.

(a) If a request for an agency record is received by an Information Center not having cognizance of the record (for example, where a request is submitted to one NASA installation or Headquarters and the requested record exists only at another NASA installation), the Information Center receiving the request shall promptly forward it to the NASA Information Center having cognizance of the record requested. That center shall acknowledge the request and inform the requester that an initial determination on the request will be sent within ten working days from the date of receipt by such center.

(b) If a request is received for agency records which exist at two or more centers, the center receiving the request shall undertake to comply with the request, if feasible, or to forward the request (or portions thereof) promptly to a more appropriate center for processing. The requester shall be kept informed of the actions taken to respond to the request.

(c) If a request is received by a NASA Information Center for a record of another agency, the requester shall promptly be informed of that fact, and the request shall be returned to the requester, with advice as to where the request should be directed.

§ 1206.605 Appeals.

(a) A member of the public who has requested an agency record in accordance with § 1206.601 or § 1206.602, and who has received an initial determination which does not comply fully with the request, may appeal such an adverse initial determination to the Administrator, or, for records as specified in § 1206.504, to the Inspector General under the procedures of this section.

(b) The Appeal must:

(1) Be addressed to the Administrator, NASA Headquarters, Washington, DC 20546, or, for records as specified in § 1206.504, to the Inspector General, NASA Headquarters, Washington, DC 20546.

(2) Be identified clearly on the envelope and in the letter as an "Appeal under the Freedom of Information Act";

(3) Include a copy of the request for the agency record and a copy of the adverse initial determination;

(4) To the extent possible, state the reasons why the requester believes the adverse initial determination should be reversed; and

(5) Be sent to the Administrator or the Inspector General, as appropriate,

within 30 calendar days of the date of receipt of the initial determination.

(c) An official authorized to make a final determination may waive any of the requirements of paragraph (b) of this section, in which case the time limit for the final determination (see § 1206.607(a)) shall run from the date of such waiver.

§ 1206.606 Requests for additional records.

If, upon receipt of a record (or portions thereof) following an initial determination to comply with a request, the requestor believes that the materials received do not comply with the request, the requestor may elect either to request additional records under the procedures of § 1206.601 or § 1206.602, or to file on appeal under the procedures of § 1206.605, in which case the appeal must be sent to the Administrator, or to the Inspector General, in the case of records as specified in § 1206.504, within 30 days of receipt of the record (or portions thereof), unless good cause is shown for any additional delay.

§ 1206.607 Actions on appeals.

(a) Except as provided in § 1206.608, the Administrator or designee, or in the case of records as specified in § 1206.504, the Inspector General or designee, shall make a final determination on an appeal and notify the requestor thereof, within 20 working days after the receipt of the appeal.

(b) If the final determination reverses in whole or in part the initial determination, the record requested (or portions thereof) shall be made available promptly to the requester, as provided in the final determination.

(c) If the final determination sustains in whole or in part an adverse initial determination, the notification of the final determination shall:

(1) Explain the basis on which the record (or portions thereof) will not be made available:

(2) Include the name and title of the person making the final determination;

(3) Include a statement that the final determination is subject to judicial review under 5 U.S.C. 552(a)(4); and

(4) Enclose a copy of 5 U.S.C. 552(a)(4).

§ 1206.608 Time extensions in unusual circumstances.

(a) In "unusual circumstances" as that term is defined in § 1206.101(f), the time limits for an initial determination (see §§1206.603 and 1206.604) and for a final determination (see § 1206.607) may be extended, but not to exceed a total of ten working days in the aggregate in the processing of any specific request for an agency record.

(b) If an extension of time under this section would be required, the requester shall be promptly notified of the reasons therefor and the date when a determination will be sent.

(c) If a record described in a request cannot be located within the ten-working-day time limit for an initial determination, after consultation with a professional NASA employee who is familiar with the subject area of the request, that fact normally will justify an initial determination that the record requested cannot be identified or located, rather than a decision that an extension of time under this section would be appropriate.

(d) In exceptional circumstances, if it would be impossible to complete a search for or review of agency records within the ten-working-day period for an initial determination, an official authorized to make an initial determination or his designee may seek an extension of time from the requester. If such an extension of time can be agreed upon, that fact should be clearly documented and the initial determination made within the extended time period; if not, an initial determination that the record cannot be identified or located, or reviewed, within the ten-working-day time limit shall be made under § 1206.603.

§ 1206.609 Litigation.

In any instance in which NASA is sued in connection with a request for an agency record under this part, the matter shall promptly be referred to the General Counsel together with a report on the details and status of the request. In such a case, if a final determination with respect to the request has not been made, such a determination shall be made as soon as possible, under procedures prescribed by the General Counsel in each case.

Subpart 7—Search, Review, and Duplication Fees

§ 1206.700 Schedule of fees.

The fees specified in this section shall be charged for searching for, reviewing, and/or duplicating agency records made available in response to a request under this part.

(a) *Copies.* For copies of documents such as letters, memoranda, statements, reports, contracts, etc., $0.10 per copy of each page. For copies of oversize documents, such as maps, charts, etc., $0.15 for each reproduced copy per square foot. These charges for copies include the time spent in duplicating the documents. For copies of still photographs, blueprints, videotapes, engineering drawings, hard copies of aperture cards, etc., the fee charged will reflect the full direct cost to NASA of reproducing or copying the record.

(b) *Clerical searches.* For each one quarter hour spent by clerical personnel in searching for an agency record in response to a request under this part, $2.25.

(c) *Nonroutine, nonclerical searches.* Where a search cannot be performed by clerical personnel, for example, where the task of determining which records fall within a request and collecting them requires the time of professional or managerial personnel, and where the amount of time that must be expended in the search and collection of the requested records by such higher level personnel is substantial, charges for the search may be made at a rate in excess of the clerical rate, namely for each one quarter hour spent by such higher level personnel in searching for a requested record, $4.50.

(d) *Review of records.* For commercial use requests only, where time is spent reviewing to determine whether they are exempt from mandatory disclosure, a charge may be made at the rate for each one quarter hour spent by an attorney, $6.25. No charge shall be made for the time spent in resolving general legal or policy issues regarding the application of exemptions. This charge will only be assessed the first time NASA reviews a record and not at the administrative appeal level.

(e) *Computerized records.* Because of the diversity in the types and configurations of computers which may be required in responding to requests for agency records maintained in whole or in part in computerized form, it is not feasible to establish a uniform schedule of fees for search and printout of such records. In most instances, records maintained in computer data banks are available also in printed form and the standard fees specified in paragraph (a) of this section shall apply. If the request for an agency record required to be made available under this part requires a computerized search or printout, the charge for the time of personnel involved shall be at the rates specified in paragraphs (b) and (c) of this section. The charge for the computer time involved and for any special supplies or materials used, shall not exceed the direct cost to NASA. This charge may be as high as $125.00 per quarter hour. Before any computer search or printout is undertaken in response to a request for an agency record, the requester shall be notified of the applicable unit costs

involved and the total estimated cost of the search and/or printout.

(f) *Other search and duplication costs.* Reasonable standard fees, other than as specified in paragraphs (a) through (e) of this section, may be charged for additional direct costs incurred in searching for or duplicating an agency record in response to a request under this part. Charges which may be made under this paragraph include, but are not limited to, the transportation of NASA personnel to places of record storage for search purposes or freight charges for transporting records to the personnel searching for or duplicating a requested record.

(g) *Charges for special services.* Complying with requests for special services such as those listed in (g) (1), (2), and (3) of this section is entirely at the discretion of NASA. Neither the FOIA nor its fee structure cover these kinds of services. To the extent that NASA elects to provide the following services, it will levy a charge equivalent to the full cost of the service provided:

(1) Certifying that records are true copies;

(2) Sending records by special methods such as express mail.

(3) Packaging and mailing bulky records that will not fit into the largest envelope carried in the supply inventory.

(h) *Unsuccessful or unproductive searches.* Search charges, as set forth in paragraphs (b) and (c) of this section, may be made even when an agency record which has been requested cannot be identified or located after a diligent search and consultation with a professional NASA employee familiar with the subject area of the request, or if located, cannot be made available under Subpart 3 of this part. Ordinarily, however, fees will not be charged in such instances unless they are substantial (over $50.00) and the requester has consented to the search after having been advised that it cannot be determined in advance whether any records exist which can be made available (see § 1206.704) and that search fees will be charged even if no record can be located and made available.

(i) *Fees not chargeable.*

(1) NASA will not charge for the first 100 pages of duplication and the first 2 hours of search time (meaning manual search) except to requesters seeking documents for commercial use.

(2) If the cost to be billed to the requester is equal to or less than $5.00, no charges will be billed.

§ 1206.701 Categories of requesters.

There are four categories of FOIA requesters: Commercial use requesters; educational and noncommercial scientific institutions; representatives of the news media; and all other requesters. The Act prescribes specific levels of fees for each of these categories:

(a) *Commercial use requesters.* When NASA receives a request for documents appearing to be for commercial use, it will assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Requesters must reasonably describe the records sought. Moreover, in the case of such a request, NASA will not consider a request for waiver or reduction of fees based upon an assertion that disclosure would be in the public interest. Commercial use requesters are not entitled to 2 hours of free search time nor to 100 free pages of reproduction of documents.

(b) *Educational and noncommercial scientific institition requesters.* NASA shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request being made is authorized by and under the auspices of a qualifying institution and that the records are not being sought for a commercial use, but are being sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a noncommercial scientific institution) research. Requesters must reasonably describe the records sought.

(c) *Requesters who are representatives of the news media.* NASA shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requester must demonstrate that he/she meets the criteria in § 1206.101(o) of this part, and his/her request must not be made for a commercial use. Requesters must reasonably describe the records sought.

(d) *All other requesters.* NASA shall charge requesters who do not fit into any of the categories mentioned in this section, fees which recover the full direct reasonable cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first 2 hours of search time shall be furnished without charge. Moreover, requests from individuals for records about themselves located in NASA's systems of records will continue to be processed under the fee provisions of the Privacy Act of 1974, which permits fees only for reproduction. Requesters must reasonably describe the records sought.

§ 1206.702 Waiver or reduction of fees.

The burden is always on the requester to provide the evidence to qualify him/her for a fee waiver or reduction.

(a) NASA shall furnish documents without charge or at reduced charges in accordance with 5 U.S.C. 552(a)(4)(A)(iii), provided that: (1) Disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and (2) it is not primarily in the commercial interest of the requester.

(b) Where these two statutory requirements are satisfied, based upon information supplied by the requester or otherwise made known to NASA, the FOIA fee shall be waived or reduced. Where one or both of these requirements is not satisfied, a fee waiver or reduction is not warranted under the statute.

(c) In determining whether disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, the following considerations shall be applied:

(1) Whether the subject of the requested records concerns "the operations or activities of the government";

(2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;

(3) Whether disclosure of the requested information will contribute to "public understanding"; and

(4) Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

(d) In determining whether disclosure of the information "is not primarily in the commercial interest of the requester," the following consideration shall be applied:

(1) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and if so,

(2) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

§ 1206.703 Aggregation of requests.

A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When NASA has reason to believe that a requester or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, NASA will aggregate any such requests and charge accordingly. NASA will consider that multiple requests made within a 30-day period were so intended, unless there is evidence to the contrary. Where the relevant time period exceeds 30 days, NASA will not assume such a motive, unless there is evidence to the contrary. In no case will NASA aggregate multiple requests on unrelated subjects from one requester.

§ 1206.704 Advance payments.

(a) NASA will not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) NASA estimates or determines that the allowable charges are likely to exceed $250. NASA will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee in a timely fashion (within 30 days of billing), then NASA may require the requester to pay the full amount owed plus any applicable interest as provided below (see § 1206.706(a)), or demonstrate that he/she has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requester.

(b) When NASA acts under paragraphs (a) (1) and (2) of this section, the administrative time limits will begin only after NASA has received the fee payments described in paragraph (a) of this section.

§ 1206.705 Form of payment.

Payment by mail shall be made by check or money order payable to the "National Aeronautics and Space Administration" and sent to the NASA office which processed the request.

§ 1206.706 Nonpayment of fees.

(a) *Interest to be charged.* Requesters are advised that should they fail to pay the fees assessed, they may be charged interest on the amount billed starting on the 31st day following the day on which the billing was sent. Interest will be at the rate prescribed in section 3717 of Title 31 U.S.C.

(b) *Applicability of Debt Collection Act of 1982 (Pub. L. 97-365).* Requesters are advised that if full payment is not received within 60 days after the billing was sent, the procedures of the Debt Collection Act may be invoked 14 CFR 1261.407-1261.409). These procedures include three written demand letters at not more than 30-day intervals, disclosure to a consumer reporting agency, and the use of a collection agency, where appropriate.

Subpart 8—Failure to Release Records to the Public

§ 1206.800 Failure to release records to the public.

(a) Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the **Federal Register** under § 1206.200(a) and not so published.

(b) A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied upon, used, or cited as precedent by NASA against any member of the public only if it has been indexed and either made available or published as provided by § 1206.200(b) or if the member of the public has actual and timely notice of the terms thereof.

(c) Failure to make available an agency record required to be made available under this part could provide the jurisdictional basis for a suit against NASA under 5 U.S.C. 552(a)(4) (B) through (G), which provides as follows:

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Civil Service Commission shall promptly initiate a preceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer of employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

Subpart 9—Annual Report

§ 1206.900 Requirements for annual report.

On or before March 1 of each calendar year, NASA shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include the following information:

(a) The number of determinations made by NASA not to comply with requests for records made to the Agency under Subpart 6 of this part and the reasons for each such determination;

(b) The number of appeals made by persons under Subpart 6 of this part, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(c) The names and titles or positions of each person responsible for the denial of records requested under this part, and the number of instances of participation for each;

(d) The results of each proceeding conducted pursuant to 5 U.S.C. 552(a)(4)

(B) through (G) (see § 1206.800(c)), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(e) A copy of the current version of this Part 1206 and any other rules or regulations made by NASA regarding 5 U.S.C. 552;

(f) A copy of the current fee schedule and the total amount of fees collected by NASA for making records available under this part; and

(g) Such other information as indicates efforts by NASA to administer fully this part.

James C. Fletcher,

Administrator.

October 21, 1987.

[FR Doc. 87-24906 Filed 10-27-87; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80-53]

Natural Gas Policy Act; Revision of Maximum Lawful Prices

AGENCY: Federal Energy Regulatory Commission, DOE.

§ 271.101 [Amended]

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(k), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of November, December 1987, and January 1988. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: November 1, 1987.

FOR FURTHER INFORMATION CONTACT: Richard P. O'Neill, Director, OPPR, (202) 357-8500.

SUPPLEMENTARY INFORMATION:

Order of The Director, OPPR

Issued October 23, 1987.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(k) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of November, December, 1987, and January, 1988, are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103, 105(b)(3), 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to August, 1987 are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Paul D. Hubbard,

Assistant to the Director.

PART 271—[AMENDED]

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-2432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.101(a) is amended by inserting the maximum lawful prices for August, September, and October, 1987 in Tables I and II as follows:

TABLE I.—NATURAL GAS CEILING PRICES

[Other than NGPA sections 104 and 106(a)]

Subpart of Part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for deliveries in—		
			Nov. 1987	Dec. 1987	Jan. 1988
B	102	New natural gas, certain OCS gas [4]	$4.715	$4.740	$4.765
C	103	New onshore production wells [5]	3.238	3.245	3.252
E	105(b)(3)	Intrastate existing contracts	4.593	4.614	4.635
F	106(b)(1)(B)	Alternative maximum lawful price for certain intrastate rollover gas [1]	1.853	1.857	1.861
G	107(c)(5)	Gas produced from tight formations [3]	6.476	6.490	6.504
H	108	Stripper gas [3]	5.049	5.076	5.103
I	109	Not otherwise covered	2.683	2.689	2.695

[1] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum Lawful Price for each month appears in this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas is deregulated. (See Part 272 of the Commission's regulations.)

[3] The maximum lawful price for tight formation is the lesser of the negotiated contract price or 200% of the price specified in Subpart C of Part 271. The maximum lawful price for tight formation gas applies on or after July 16, 1979. (See § 271.703 and § 271.704.)

[4] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 102(c) is deregulated. (See Part 272 of the Commission's regulations.)

[5] Commencing January 1, 1985, and July 1, 1987, the price of some natural gas finally determined to be natural gas produced from a new, onshore production well under section 103 is deregulated. (See Part 272 of the Commission's regulations.) Thus, for all months succeeding June 1987 publication of a maximum lawful price per MMBtu under NGPA section 103(b)(2) is discontinued.

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(A)

[Subpart D, Part 271]

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries made in—		
	Nov. 1987	Dec. 1987	Jan. 1988
Post—1078 gas:[2] All producers	$2.683	$2.689	$2.695
1973–1974 Beinnium gas:			
Small producer	2.266	2.271	2.276
Large producer	1.733	1.737	1.741
Interstate Rollover gas: All producers	.996	.998	1.000
Replacement contract gas or recompletion gas:			
Small producer	1.271	1.274	1.277
Large producer	.977	.979	.981
Flowing gas:			
Small producer	.645	.646	.647
Large producer	.545	.546	.547
Certain Permian Basin gas:			
Small producer	.756	.758	.760
Large producer	.671	.672	.673
Certain Rocky Mountain gas:			
Small producer	.756	.758	.760
Large producer	.645	.646	.647
Certain Appalachian Basin gas:			
North subarea contracts dated after 10–7–69	.614	.615	.616
Other contracts	.569	.570	.571
Minimum rate gas:[1] All producers	.335	.336	337

[1] Price for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.
[2] This price may also be applicable to other categories of gas. (See § 271.402, 271.602)

3. Section 271.102(c) is amended by inserting the inflation adjustment for the months of August, September, and October, 1987

§ 271.102 [Amended]

* * * * *

(c) * * *

TABLE III.—INFLATION ADJUSTMENT

Month of delivery 1987 and 1988	Factor by which price in preceding month is multiplied
November	1.00214
December	1.00214
January	1.00214

[FR Doc. 87-24970 Filed 10-27-87; 8:45 am]

BILLING CODE 6717-01M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Parts 193 and 561

[PP 7H5532/R91; FRL-3282-9]

Pesticide Tolerances for Metalaxyl; Certain Food and Feed Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These rules establish tolerances for residues of the fungicide metalaxyl and its metabolites in or on certain food and feed items. These regulations to establish maximum permissible levels for residues of metalaxyl were requested in a petition submitted by Ciba-Geigy Corp.

EFFECTIVE DATE: Effective on October 28, 1987.

ADDRESS: Written objections, identified by the document control number [PP 7H5532/R921], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Product Manager (PM) 21, Registration Division (TS–767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–1900.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of August 26, 1987 (52 FR 32138), which announced that Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419, had submitted petition 7H5532 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the fungicide metalaxyl [*N*-2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methenyl)-*N*-(methoxyacetyl)alanine methyl ester, each expressed as metalaxyl, in or on the commodity dry hops at 10 parts per million (ppm). The petitioner amended the petition to include a food additive tolerance at 50 ppm on dry hops and a feed additive tolerance on spent hops at 50 ppm.

These regulations expire 1 year after the date of publication of the final rule in the Federal Register. If the following are submitted and are acceptable to the Agency, it will consider extending the tolerance beyond the 1-year time period: Revised label with corrected calculations for total metalaxyl (ai) applied per year; residue data on samples with analysis by the Pesticide Analytical Manual (PAM–II) procedure or another proven procedure that determines parent and metabolites included in the U.S. tolerance expression (storage intervals between sampling and analysis and storage conditions should be reported for all residue data).

There were no comments or requests for referral to an advisory committee

received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 21 CFR Parts 193 and 561

Food additives, Animal feeds, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 20, 1987.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

Therefore, Chapter I of 21 CFR is amended as follows:

PART 193—[AMENDED]

In Part 193:

a. The authority citation for Part 193 continues to read as follows:

Authority: 21 U.S.C. 346a.

b. Section 193.277 is amended by adding new paragraph (d), to read as follows:

§ 193.277 Metalaxyl.

* * * * *

(d) A food additive regulation is established until October 28, 1988, for residues of the fungicide metalaxyl [*N*-2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylpheny1)-*N*-(methoxyacetyl)-alanine methyl ester, each expressed as metalaxyl, in or on the following processed foods when present therein as a result of application to growing hops:

Foods	Parts per million
Hops, dried	50

PART 561—[AMENDED]

2. In Part 561:

a. The authority citation for Part 561 continues to read as follows:

Authority: 21 U.S.C. 348.

b. Section 561.273 is amended by adding new paragraph (d), to read as follows:

§ 561.273 Metalaxyl.

* * * * *

(d) A feed additive regulation is established until October 28, 1988, for residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)alanine methyl ester, each expressed as metalaxyl, in or on the following processed feeds when present therein as a result of application to growing hops:

Feeds	Parts per million
Hops, spent	50

[FR Doc. 87-24941 Filed 10-27-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1316

[A.G. Order No. 1230-87]

Administrative Functions, Practices, and Procedures; Technical Amendment

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This order revises 21 CFR 1316.74 by deleting the requirement to use retail prices for appraisement of property seized for forfeiture in cases involving the criminal drug laws of the United States. This is being done to enable appraisements in such cases to be consistent with appraisements in forfeiture cases not involving the drug laws.

EFFECTIVE DATE: October 8, 1987.

FOR FURTHER INFORMATION CONTACT: Director, Asset Forfeiture Office, Criminal Division, United States Department of Justice, Washington, DC 20530; (202) 786-4950.

SUPPLEMENTARY INFORMATION: The regulations governing appraisement of property seized for forfeiture in cases involving the customs laws (19 CFR 162.43), the immigration laws (8 CFR 274.7), and the nondrug-related laws enforced by the Federal Bureau of Investigation (28 CFR 8.5), do not require seized property to be appraised at its retail price. The forfeiture regulations of 21 CFR 1316.74, which govern appraisement of property seized for drug-related forfeitures, should be amended for consistency with appraisement regulations in nondrug-related forfeitures.

It has been determined that this is an integral management matter not requiring consultation with the Office of Management and Budget under E.O. 12291. Moreover, this order will have no impact upon small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

List of Subjects in 21 CFR Part 1316

Seizures and forfeitures.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Part 1316 of Title 21 of the Code of Federal Regulations is amended as follows:

PART 1316—[AMENDED]

1. The authority citation for Subpart E of Part 1316 continues to read as follows:

Authority: 21 U.S.C 871(b), 881, 965. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 1316.74 [Amended]

2. Section 1316.74 is amended by removing the word "retail".

Date: October 8, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-24878 Filed 10-27-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. N-87-1730; FR 2399]

Determination to Recognize the Fair Housing Laws; Missouri; Broward County, FL, and Des Moines, IA

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of determination.

SUMMARY: This notice announces the Department's decision to recognize the fair housing laws of the State of Missouri, Broward County, Florida and Des Moines, Iowa, in accordance with 24 CFR 115.6(c).

EFFECTIVE DATE: October 28, 1987.

FOR FURTHER INFORMATION CONTACT: Wagner Jackson, Acting Director, Fair Housing Enforcement and Section 3 Compliance, Room 5208, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755-0455. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On April 28, 1987, the Department published in the **Federal Register** a notice (52 FR 15304) soliciting public comment on the fair housing laws of the State of Missouri, Broward County, Florida and Des Moines, Iowa. The notice invited comments on the Department's determination that the fair housing law of each jurisdiction "on its face" provides rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided under Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601-19. Comment was also invited on the present and past performance of the agencies administering the law. No public comments were received with respect to any of these jurisdictions laws.

This publication gives notice of the recognition of the State of Missouri, Broward County, Florida and Des Moines, Iowa in accordance with 24 CFR 115.6(c).

Date: October 20, 1987.

Judith Y. Brachman,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 87-24946 Filed 10-27-87; 8:45 am]

BILLING CODE 4210-28-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5 and 19

[T.D. ATF-259; Ref: Notice Nos. 523 and 536]

Change in Standard of Identity for Straight Whiskies of the Same Type

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule by the Bureau of Alcohol, Tobacco and Firearms (ATF) changes the standard of identity for straight whiskies of the same type. This change is the result of a petition from Hiram Walker & Sons, Inc. The effect of this change will be to ease existing restrictions on allowing straight whiskies of the same type to be mingled and designated "straight."

EFFECTIVE DATE: November 27, 1987.

FOR FURTHER INFORMATION CONTACT: Robert L. White, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202) 566-7531.

SUPPLEMENTARY INFORMATION:

Background

A petition was received from Hiram Walker & Sons, Inc., in January of 1983, requesting that the standard of identity for straight whiskies of the same type be changed to eliminate the requirement in 27 CFR 5.22(b)(1)(iii) that such spirits must be produced in the same distillery by the same proprietor if such whiskies are to be mingled and designated as "straight." The petitioner stated that he wanted the standard of identity for "straight whisky" changed in order to enable straight bourbon whiskies produced within the same State to be mingled and designated "straight bourbon whisky."

In addition, over the past few years, ATF has received several inquiries from proprietors of distilled spirits plants asking whether they could mingle straight whiskies of the same type which had been produced at two or more distilleries located within the same State and still label the end product as "straight." Furthermore, several distilled spirits plant proprietors have inquired whether they could mingle straight whiskies of the same type which are four years old or more with straight whiskies of the same type that are less than four years but at least two years old and still label such mingled whisky as "straight."

Current regulations at 27 CFR 5.22(b)(1)(iii) state that "straight whisky" includes mixtures of straight whiskies of the same type produced by the same proprietor at the same distillery all of which are not less than four years old. Also, regulations at 27 CFR 19.346 state that spirits distilled at less than 190 degrees of proof may be mingled for withdrawal or further storage if, in the case of domestic spirits, such spirits are of the same kind and were produced by the same proprietor (under his own or any trade name) at the same distillery. In the case of imported spirits distilled at less than 190 degrees of proof, such spirits may be mingled for withdrawal or further storage if the spirits are of the same kind and were produced by the same proprietor at the same foreign distillery. In addition, such imported spirits must have been treated, blended, or compounded at the same foreign plant by the same person, and the duty must have been paid at the same rate.

Hiram Walker stated in their petition that the current regulations, mentioned in the preceding paragraph, should be changed since the standard of identity for "bourbon" is very broad and, as a result, substantial variation, at the option of the distiller, is possible among products meeting this standard of identity. These variations are largely independent of where the whisky is made, and consequently, bourbons of different character can be made in a single distillery and bourbons of substantially the same character can be made in different distilleries by appropriate control of processing. Hiram Walker stated that their request merely recognized the fact that two distilleries under the same proprietorship in the same State are no more likely to produce homogeneous straight bourbon whiskies than two distilleries in the same State operated by different proprietors. Consequently, Hiram Walker requested that the regulations be changed so that straight bourbon whiskies produced within the same State may be mingled and designated as "straight bourbon whisky."

Notice No. 523 and 536

In response to Hiram Walker's petition, ATF published a notice of proposed rulemaking, Notice No. 523, in the **Federal Register** on May 7, 1984 (49 FR 19333), proposing several changes which would ease some of the existing restrictions on allowing straight whiskies of the same type to be mingled and designated "straight." Seven comments were received in response to Notice No. 523 including one from

Heublein which requested a 90-day extension of the comment period. In response to Heublein's request, we published Notice No. 536 on July 31, 1984 (49 FR 30538) which reopened the comment period on Notice No. 523 until October 29, 1984. Four comments were received in response to the reopening notice.

Comments

Two industry members and one State liquor control board—Glenmore Distilleries Company, Heublein, and the State of Washington respectively—concurred with AFT's proposals in Notice No. 523.

Four industry members—Barton Brands Ltd., Brown-Forman Corporation, National Association of Beverage Importers, Inc. (NABI), and Hiram Walker and Sons, Inc.,—commented in favor of the proposals in Notice No. 523 except for the proposal to allow the mingling of straight whiskies of the same type between States and still allowing such mingled spirits to be labeled as "straight."

Two industry members—Schenley Industries, Inc., and James B. Beam Distilling Co.,—stated they were opposed to the proposals in Notice No. 523. Schenley stated that the present regulations should not be changed because such regulations continue to assure the integrity of straight whisky products. James B. Beam stated that they do not object to mingling of straight bourbon whiskies if it is limited to bourbon whisky produced by the same proprietor in the same State under the same distilling process and formulation. Otherwise, they are opposed. They also stated there is a need to differentiate between straight products and blended products. Beam stated that the proposed new regulations would not differentiate between homogeneous spirits that were mingled and similar spirits that were blended into mixtures at prescribed ratios established by the proprietor. Beam also raised questions concerning how these products would be labeled. Furthermore, Beam stated that they are against the relaxation of the four year old requirement for the mingling of straight whiskies since it would allow for the mixing of older whiskies with very young whiskies that have not matured to the extent the consumer normally expects. In regard to imported spirits, Beam stated that the proposed rule, if adopted, would allow spirits to be blended in a foreign country and labeled as a straight product when the product would really be a blend.

The final commenter—National Distillers and Chemical Corporation—stated they had some strong reservations about some of the proposals in Notice No. 523. These reservations include the following:

(1) The removal of the "same proprietor" requirement in regard to straight whisky raises some interesting questions concerning the labeling of such spirits. National feels that labeling requirements as to "distiller" or "distillers" need to be clarified as to all possible combinations of minglings in "storage accounts" and "processing accounts" when two or more proprietor's whiskies are mingled. National asks whether allowing more than one distiller's name on a straight whisky label would be confusing to the consumer.

(2) Regulations at 27 CFR 19.597(b) provide for the change of the original designation of spirits, before withdrawal from bonded premises, to a new designation properly describing the spirits. Since Tennessee whisky may satisfy the regulatory requirements for bourbon whisky, National asks whether such whisky could be redesignated, blended with Kentucky straight bourbon, and later bottled and labeled as "straight bourbon whisky." National states that specific States and types of whiskies have, over the years, gained consumer understanding with resultant proprietor, promotional and goodwill value. Consequently, absent a showing of good cause and need, National states that they do not support mingling of straight whiskies of more than one State when the end product is to be labeled as "straight whisky."

(3) National states that the proposed definition of "a blend of straight whiskies" should be changed to ensure that a distiller who only adds harmless coloring, flavoring, or blending materials (as set forth in 27 CFR 5.23(a)) to his own straight whisky can still call the product "a blend of straight whiskies." In addition, National feels that the proposed regulations should be changed so that straight whiskies of different types which contain not less than 51 percent of one of the types of straight whisky can be further designated by that specific type.

(4) National states that they do not agree with the proposal to change the age requirement from four years to two years for whiskies of the same type that are to be mingled and designated as "straight." National states that, traditionally, "straight bourbons" have been aged four or more years. National feels that any changes in age requirements that might reduce quality, both actually and in the public image (such as showing a two or three year age statement on a "straight bourbon" label) would not be in the best interests of the bourbon industry. National feels that the mingling of less than four year old whiskies should continue to be labeled as a blend.

(5) With regard to imported products, National states that they concur with Notice No. 536 that mingling of different producers' distinctive products should continue only in the country of origin. National states that such a provision should apply not only to distinctive whiskies but also to any class or type of product recognized as being distinctive of one country. In addition, National states that they support the proposed deletion of the present provisions requiring "the same foreign distillery" and "the same foreign plant." National states that imported spirits which are to be mingled domestically should continue to be from the same proprietor so that the proprietor may retain control over the quality and character of his product. National feels, however, that there should not be any requirement that imported products, which are to be mingled domestically, have to be from the same foreign distillery or that such products have to be treated, blended, or compounded by the same person at the same foreign distillery or plant.

ATF Response to Comments

After careful evaluation of the comments received in response to Notice No. 523 and Notice No. 536, ATF has decided to accept some of the suggestions presented in those comments and to modify its proposals in Notice No. 523 accordingly. Seven of the commenters were strongly opposed to the proposal to allow the mingling of straight whiskies of the same type between States if such mingled spirits are to be labeled as "straight." ATF made this proposal in Notice No. 523 since it was felt that such mingling should not be restricted to proprietors within the same State if the only objection to such mingling between different States was that it would create a labeling problem. However, several industry members have pointed out that specific States and types of whiskies have, over the years, gained unquestionable consumer understanding with resultant proprietor, promotional and goodwill value. For this reason, these industry members do not support the mingling of straight whiskies of two or more States when the end product is to be labeled as "straight whisky." Upon reconsideration of this matter, ATF feels that due to the labeling and consumer misunderstanding problems that might result, as well as the proprietor, promotional, and goodwill problems that would be created by such consumer

misunderstanding, it is necessary to modify our proposal in Notice No. 523 to require that all whiskies of the same type be from the same State if such whiskies are to be mingled and designated as "straight whisky." ATF feels that whisky of substantially the same character can be produced at different distilleries within the same State by appropriate control of processing. We also feel that it is not necessary for the different distilleries to be operated by the same proprietor in order to achieve the necessary control of processing which would result in the production of spirits of substantially the same character. For these reasons, ATF feels that the mixing of straight whiskies of the same type, which have been produced within the same State, whether or not from the same distilled spirits proprietor, is a mingling operation of homogeneous spirits rather than a blending operation.

Three industry members were strongly opposed to the proposal in Notice No. 523 to allow mixtures of straight whiskies, which are to be designated as "straight," to be made up of straight whiskies all of which are at least two years old. This proposal was a relaxation of the current requirement that all whiskies in such mixtures be at least four years old or more. Since the definition of "straight whisky" states that it must have been stored in the prescribed type of oak containers for a period of two years or more, ATF feels that there is insufficient justification to require that mixtures of such whiskies be made of whiskies all of which are at least four years old if the mixtures are to be designated as "straight." ATF feels that a minimum two year age requirement for all whiskies in the mixture is sufficient to designate the mixture as "straight." ATF feels that the labeling requirement in 27 CFR 5.40 which requires the age of the youngest spirits be shown on the label if any of the spirits are less than four years old is sufficient protection for the consumer and will alert such consumer to the fact that the "straight whisky" in the bottle is less than four years old. It will then be up to the consumer to decide whether such "straight whisky," which is less than four years old, is good enough to compete successfully with other "straight whiskies."

One industry member asked whether allowing more than one distiller's name on a "straight whisky" label would be confusing to the consumer. ATF feels that allowing more than more distiller's name on such a label would not be confusing to the consumer as long as certain information is shown on the label. This information shall include the names of the different distillers who actually distilled a portion of the "straight whisky," the addresses of the distilleries where the "straight whisky" was distilled, and the percentage of "straight whisky" distilled by each distiller (with a tolerance of plus or minus 2 percent). Labeling the whisky in this manner will ensure that the consumer is not deceived.

If "straight whiskey," which is made up of a mixture of "straight whiskies" of the same type from two or more distillers located within the same State, is not labeled in the manner described in the immediately preceding paragraph, then such "straight whisky" must be labeled with the phrase "bottled by," "packed by" or "filled by," immediately followed by the name (or trade name) of the bottler and the place where such distilled spirits are bottled as provided for in 27 CFR 5.36(a) and the first paragraph of 27 CFR 19.645.

In the case where "straight whisky" is made up of a mixture of "straight whiskies" of the same type from two or more different distilleries of the same proprietor located within the same State, such "straight whisky" may be labeled with the phrase "distilled by" followed by the name (or trade name) of the proprietor and the addresses of the different distilleries which distilled a portion of the "straight whisky." If such "straight whisky" is not labeled in this manner, then it must be labeled in accordance with the provisions of 27 CFR 5.36(a) and the first paragraph of 27 CFR 19.645.

Several industry members stated that ATF's proposal in Notice No. 523 to change the standard of identity for "a blend of straight whiskies" should be modified in several different ways. These suggestions were based on the premise that ATF's proposed change in the standard of identity for "straight whisky" would be incorporated into the regulations as proposed. Due to the comments received on Notice No. 523, however, ATF has decided to change the standard of identity for "straight whisky" in such a way as to require that all mixtures of such whiskies, which are to be designated as straight, be made of straight whiskies of the same type from distillers all of whom must be located within the same State. Consequently, the industry members' suggestions concerning the standard of identity for "a blend of straight whiskies" are no longer appropriate. The new standard of identity for "a blend of straight whiskies" states that such a blend is a mixture of straight whiskies which does not conform to the standard of identity for "straight whisky" and which may or may not contain harmless coloring, flavoring, or blending materials as set forth in 27 CFR 5.23(a). In addition, the definition of "a blend of straight whiskies" consisting entirely of one of the types of straight whisky has been changed to include straight whisky of the same type which was produced in the same State or by the same proprietor within the same State if such whisky contains harmless coloring, flavoring, or blending materials as stated in 27 CFR 5.23(a). This change was needed to enable a distilled spirits plant proprietor to continue to use "a blend of straight whiskies" designation on his label without such proprietor having to purchase straight whisky from a proprietor in a different State to mix with his own straight whisky. For a more complete definition of "a blend of straight whiskies," see § 5.22(b)(5) in the regulations portion of this document.

And finally, two industry members stated that they did not fully agree with ATF's proposed changes concerning the mingling of imported spirits in this country. One stated that the ramification and impact on imported spirits is unclear and could allow for changes to products as we know them today, without making the corresponding label changes that would alert the consumer about these changes. The other industry member stated that imported distinctive spirits, which are to be mingled domestically, should continue to be from the same proprietor on that the proprietor may retain control over the quality of his product.

After careful consideration of these industry members' comments ATF has decided to change regulations in 27 CFR 19.346 to make a distinction between the mingling or blending of imported spirits and the mingling or blending of imported spirits which are recognized as distinctive products in 27 CFR Part 5. Distinctive products are manufactured in strict compliance with the laws of the country of origin. The country of origin may have laws restricting the mingling of distinctive spirits from more than one proprietor if the product is to retain its distinctive designation. ATF feels, therefore, that a distinction should be made between imported spirits and distinctive imported spirits. Consequently, imported spirits that have been distilled at less than 190 degrees of proof may be mingled in the storage account of a U.S. warehouseman for withdrawal or further storage if (1) such spirits are of the same kind; (2) such spirits were produced in the same foreign country; and (3) such spirits were treated, blended, or compounded

in the same foreign country and the duty was paid at the same rate. However, in the case where such imported spirits are recognized as distinctive products as specified in 27 CFR Part 5, the imported spirits may only be mingled for withdrawal or further storage if (1) such spirits are of the same kind; (2) such spirits were produced by the same proprietor in the same foreign country; and (3) such spirits were treated, blended, or compounded by the same proprietor in the same foreign country and the duty was paid at the same rate. This change to ATF's proposal in Notice No. 523 concerning imported spirits will ensure that distinctive imported products, which are to be mingled domestically, will continue to be from the same foreign proprietor so that such proprietor may retain control over the quality and character of his product.

ATF Rul. 82-10 and Rev. Rul. 54-350

The regulations portion of this document at 27 CFR 5.22(b)(4) has been changed to incorporate ATF Rul. 82-10, C.B. 1982-3, 27, which holds that the "straight whisky" component of a blended whisky may be satisfied by employing "a blend of straight whiskies." However, if "a blend of straight whiskies" is used as the "straight whisky" component of a blended whisky, the blended whisky must contain at least 20 percent of straight whiskies on a proof gallon basis.

In addition, regulations at 27 CFR 5.22(b)(5) have been changed to incorporate some of the language contained in Rev. Rul. 54-350 and to change the standard of identity for "a blend of straight whiskies." As revised, § 5.22(b)(5) states, in part, that "a blend of straight whiskies" is a mixture of straight whiskies which does not conform to the standard of identity for "straight whisky" and which may or may not contain harmless coloring, flavoring, or blending materials as set forth in 27 CFR 5.23(a).

Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 17, 1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

Copies of the petition and the comments received on the notice or proposed rulemaking, Notice No. 523, and the notice reopening the comment period, Notice No. 536, pertaining to this final rule, are available for inspection during normal business hours at the following location: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, DC.

Drafting Information

The principal author of this document is Robert L. White, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers.

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine. 27 CFR Part 5—*Labeling and Advertising of Distilled Spirits*—is amended to read as follows:

PART 5—[AMENDED]

Paragraph 1. The authority citation for Part 5 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 5.22 is amended by revising the last sentence of paragraph (b)(1)(iii) and by revising paragraphs (b)(4) and (b)(5) to read as follows:

§ 5.22 The standards of identify.

* * * * *

(b) * * *

(1) * * *

(iii) * * * "Straight whisky" includes mixtures of straight whiskies of the same type produced in the same State.

* * * * *

(4) "Blended whisky" (whisky—a blend) is a mixture which contains straight whisky or a blend of straight whiskies at not less than 20 percent on a proof gallon basis, excluding alcohol derived from added harmless coloring, flavoring or blending materials, and, separately, or in combination, whisky or neutral spirits. A blended whisky containing not less than 51 percent on a proof gallon basis of one of the types of straight whisky shall be further designated by that specific type of straight whisky; for example, "blended rye whisky" (rye whisky—a blend).

(5) (i) "A blend of straight whiskies" (blended straight whiskies) is a mixture of straight whiskies which does not conform to the standard of identify for "straight whisky." Products so designated may contain harmless coloring, flavoring, or blending materials as set forth in 27 CFR 5.23(a).

(ii) "A blend of straight whiskies" (blended straight whiskies) consisting entirely of one of the types of straight whisky, and not conforming to the standard for straight whisky, shall be further designated by that specific type of straight whisky; for example, "a blend of straight rye whiskies" (blended straight rye whiskies). "A blend of straight whiskies" consisting entirely of one of the types of straight whisky shall include straight whisky of the same type which was produced in the same State or by the same proprietor within the same State, provided that such whisky contains harmless coloring, flavoring, or

blending materials as stated in 27 CFR 5.23(a).

(iii) The harmless coloring, flavoring, or blending materials allowed under this section shall not include neutral spirits or alcohol in their original state. Neutral spirits or alcohol may only appear in a "blend of straight whiskies" or in a "blend of straight whiskies consisting entirely of one of the types of straight whisky" as a vehicle for recognized flavoring of blending material.

* * * * *

Par. 3. Section 5.27 is amended by revising paragraph (d) to read as follows:

§ 5.27 Formulas.

* * * * *

(d) The mingling of spirits (including merchandise returned to bond) which differ in class or type of materials from which produced;

* * * * *

Par. 4. Section 5.36 is amended by renumbering paragraphs (a)(3) and (a)(4) as paragraphs (a)(4) and (a)(5) respectively and by adding a new paragraph (a)(3) to read as follows:

§ 5.36 Name and address.

(a) * * *

(2) * * *

(3) Where "straight whiskies" of the same type which have been produced in the same State by two or more different distillers are combined (either at time of bottling or at a warehouseman's bonded premises for further storage) and subsequently bottled and labeled as "straight whisky," such "straight whisky" shall be labeled in accordance with the requirements of paragraph (a)(1) of this section. Where such "straight whisky" is bottled by or for the distillers thereof, there may be stated on the label, in lieu of the requirements of paragraph (a)(1) of this section, the phraise "distilled by," followed by the names (or trade names) of the different distillers who distilled a portion of the "straight whisky," the addresses of the distilleries where the "straight whisky" was distilled, and the percentage of "straight whisky" distilled by each distiller (with a tolerance of plus or minus 2 percent). In the case where "straight whisky" is made up of a mixture of "straight whiskies" of the same type from two or more different distilleries of the same proprietor located within the same State, and where the "straight whisky" is bottled by or for the proprietor thereof, such "straight whisky" may be labeled, in lieu of the requirements of paragraph (a)(1) of the this section, with the phrase "distilled by" followed by the name (or trade name) of the proprietor and the addresses of the different distilleries which distilled a portion of the "straight whisky."

* * * * *

27 CFR Part 19—*Distilled Spirits Plants*—is amended to read as follows:

Paragraph 1. The authority citation for Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5041, 5061, 5062, 5066, 5101, 5111–5113, 5171–5173, 5175, 5176, 5178–5181, 5201–5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. Section 19.346 is amended by revising paragraphs (b)(1) and (b)(2) and adding (b)(3) to read as follows:

§ 19.346 Mingling or blending of spirits for further storage.

* * * * *

(b) * * *

(1) In the case of domestic spirits:

(i) Such spirits are of the same kind; and

(ii) Such spirits were produced in the same State.

(2) In the case of imported spirits:

(i) Such spirits are of the same kind;

(ii) Such spirits were produced in the same foreign country; and

(iii) Such spirits were treated, blended, or compounded in the same foreign country and the duty was paid at the same rate.

(3) In the case of imported spirits which are recognized as distinctive products in 27 CFR Part 5:

(i) Such spirits are of the same kind;

(ii) Such spirits were produced by the same proprietor in the same foreign country; and

(iii) Such spirits were treated, blended, or compounded by the same proprietor in the same foreign country and the duty was paid at the same rate.

* * * * *

Par. 3. Section 19.645 is amended by renumbering paragraphs (b) and (c) as (c) and (d) and by adding a new paragraph (b) to read as follows:

§ 19.645 Name and address of bottler.

* * * * *

(b) Where "straight whiskies" of the same type which have been produced in the same State by two or more different distillers are combined (either at time of bottling or at a warehouseman's bonded premises for further storage) and subsequently bottled and labeled as "straight whisky," such "straight whisky" shall be labeled in accordance with the requirements of the first paragraph of this section. Where such "straight whisky" is bottled by or for the distillers thereof, there may be stated on the label, in lieu of the requirements of the first paragraph of this section, the phrase "distilled by," followed by the names (or trade names) of the different distillers who distilled a portion of the "straight whisky," the addresses of the distilleries where the "straight whisky" was distilled, and the percentage of "straight whisky" distilled by each distiller (with a tolerance of plus or minus 2 percent). In the case where "straight whisky" is made up of a mixture of "straight whiskies" of the same type from two or more different distilleries of the same proprietor located within the same State, and where the "straight whisky" is bottled by or for the proprietor thereof, such "straight whisky" may be labeled, in lieu of the requirements of the first paragraph of this section, with the phrase "distilled by" followed by the name (or trade name) of the proprietor and the addresses of the different distilleries which distilled a portion of the "straight whisky."

* * * * *

Signed: September 18, 1987.

Stephen E. Higgins,

Director.

Approved: October 2, 1987.

Gerald L. Hilsher,

Acting Assistant Secretary (Enforcement).

[FR Doc. 87-24964 Filed 10-27-87; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3257-8]

Standards of Performance for New Stationary Sources; Addition of Alternative Procedure for Measuring Volume and Flow Rate to Method 6, Appendix A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Revisions and Additions to Method 6 to add an alternative procedure were proposed in the **Federal Register** on December 12, 1986. This action promulgates these revisions and additions. The alternative is a procedure using critical orifices for volume and flow rate measurements. The intended effect of these revisions is to reduce the cost of sampling without sacrificing accuracy. This alternative would apply to all sources where regulations specify

the use of Method 6 equipment to extract a gas sample.

EFFECTIVE DATE: October 28, 1987.

Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Docket.* A docket, number A–86–13, containing materials relevant to this rulemaking, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE–131), South Conference Center, Room 4, 401 M Street, SW., Washington DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Sorrell or Roger Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2237.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

An alternative procedure for measuring the volume and flow rate in gas sampling trains using critical orifices is being added to Method 6.

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations nor does it change any emission standard. Rather, the rulemaking would simply add test procedures associated with emission measurement requirements that would apply irrespective of this rulemaking.

II. Public Participation

A public hearing was scheduled for January 26, 1987, at 10:00 a.m., but was not held because no one requested to speak. The public comment period was from December 12, 1986, to February 25, 1987. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made to the proposed rulemaking.

III. Significant Comments and Changes to the Proposed Rulemaking

One comment letter from industry was received. The major comments and the Agency's responses are summarized below.

The first comment concerned the possibility that the sample gas volume would be incorrect if the proposed sampling train is used in a stack with a pressure different from atmospheric pressure at which the critical orifice is calibrated.

The commenter suggested modifying the sampling train by installing (1) a vacuum gauge upstream from the critical orifice and downstream from the last impinger and (2) a needle valve between the last impinger and the new vacuum gauge. The commenter also suggested the following procedure using the modified sampling train. "The critical orifice should be calibrated at a known reading of the vacuum gauge while keeping the new needle valve almost completely open. During source testing the reading of the new vacuum upstream from the critical orifice should be maintained at the same level at which calibration was performed. The reading of the new vacuum gauge can be adjusted by manipulating the new needle valve." The Administrator agrees that the calculated sample gas volume would be incorrect if the stack pressure is different from atmospheric pressure. The proposed sampling train was modified to include the addition of a vacuum gauge upstream from the critical orifice and downstream from the last impinger. Equation 6–7 was amended to correct the sample volume for the difference between the stack pressure and atmospheric pressure.

The second comment pointed out an error in Equation 6–6. The units of $\bar{Q}_{std}$ should have been scm/min (scf/min) instead of sm^3 (scf). The proposal was revised for the correct units of $\bar{Q}_{std}$.

The final comment stated that M_a and M_s of Equation 6–7 had been incorrectly defined and recommended the following definition:

M_a = Molecular weight of the ambient air saturated at impinger temperature, g/g-mole (1b/1b-mole).

M_s = Molecular weight of the sample gas saturated at impinger temperature, g/g-mole (1b/1b-mole).

The Administrator agrees with the commenter, and the definitions for M_a and M_s were corrected using the definitions suggested above.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated rulemaking and EPA responses to significant comments, the contents of the docket, except for interagency review material, will serve as the record in case of judicial review (Section 307(d)(7)(A)).

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in section 1 of the Order as grounds for finding a regulation to be "major rule." This rulemaking does not impose any additional emission measurement requirements on facilities affected by this rulemaking. Rather, this rulemaking revised the test method to which the affected facilities are already subject. The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a regulatory flexibility analysis (RFA) in those instances where small business impacts are possible. Because these standards impose no adverse economic impacts, an RFA has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will have no economic impact on small entities because no additional testing costs will be incurred.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, Fossile fuel-fired steam generators, Petroleum refineries.

Date: October 20, 1987.

Lee M. Thomas,

Administrator.

Method 6 of Appendix A of 40 CFR Part 60 is amended as follows:

PART 60—[AMENDED]

1. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

Appendix A—[Amended]

2. By adding Section 7.2 to Method 6 to read as follows:

7. Alternative Procedures.

* * * * *

7.2 Critical Orifices for Volume and Rate Measurements. A critical orifice may be used in place of the dry gas meter specified in Section 2.1.10, provided that it is selected, calibrated, and used as follows:

7.2.1 Preparation of Collection Train. Prepare the sampling train as shown in Figure 6–2. The rotameter and surge tank are optional but are recommended in order to detect changes in the flow rate.

Note.—The critical orifices can be adapted to a Method 6 type sampling train as follows: Insert sleeve type, serum bottle stoppers into two reducing unions. Insert the needle into the stoppers as shown in Figure 6–3.

BILLING CODE 6560-50-M

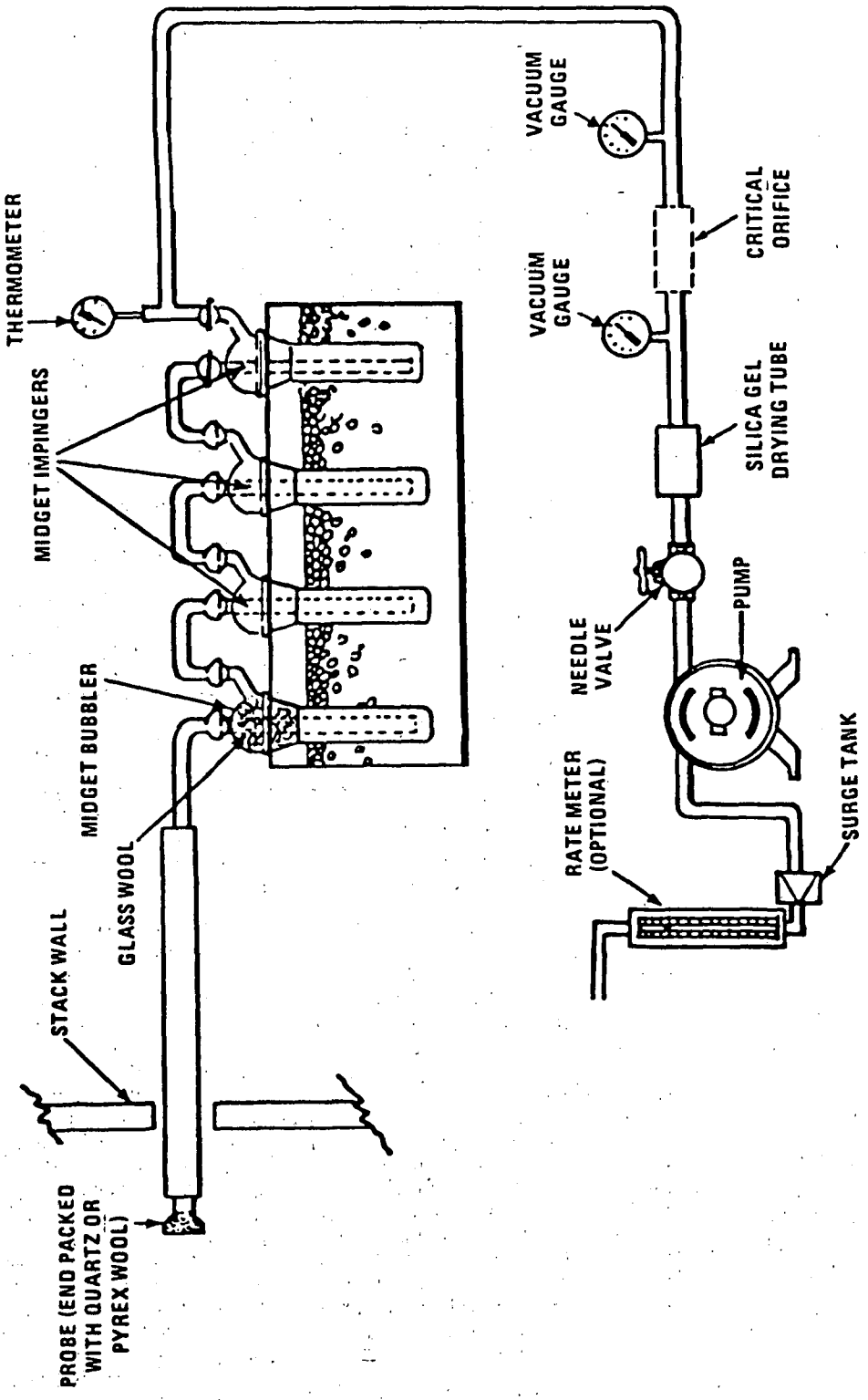

Figure 6-2. SO_2 sampling train using a critical orifice.

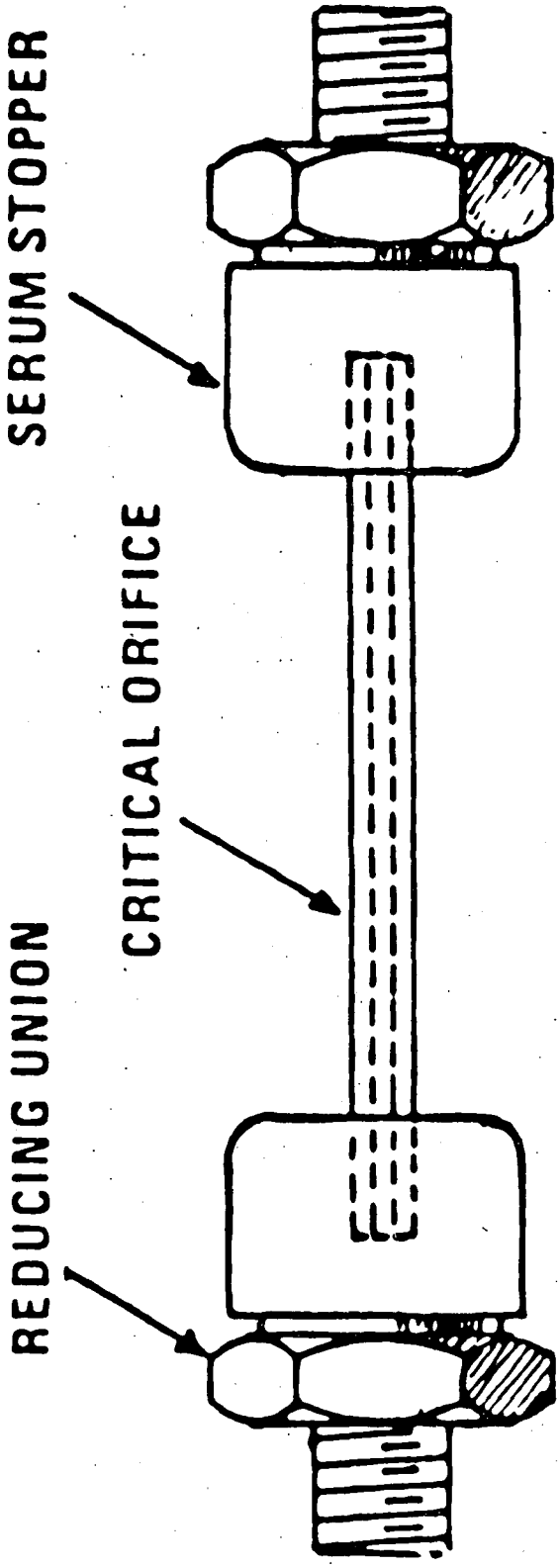

Figure 6-3. Critical orifice adaptation for Method 6 sampling train.

BILLING CODE 6560-50-C

7.2.2 Selection of Critical Orifices. The procedure that follows describes the use of hypodermic needles and stainless steel needle tubings, which have been found suitable for use as critical orifices. Other materials and critical orifice designs may be used provided the orifices act as true critical orifices, i.e., a critical vacuum can be obtained, as described in this section. Select a critical orifice that is sized to operate at the desired flow rate. The needle sizes and tubing lengths shown below give the following approximate flow rates.

Guage/cm	Flow rate, cc/min	Gauge/cm	Flow rate, cc/min
21/7.6	1100	23/3.8	500
22/2.9	1000	23/5.1	450
22/3.8	900	24/3.2	400

Determine the suitability and the appropriate operating vaccum of the critical orifice as follows: If applicable, temporarily attach a rotameter and surge tank to the outlet of the sampling train. Turn on the pump, and adjust the valve to give a outlet vacuum reading corresponding to about half of the atmospheric pressure. Observe the rotameter reading. Slowly increase the vacuum until a stable reading is obtained on the rotameter. Record the critical vacuum, which is the outlet vacuum when the rotameter first reaches a stable value. Orifices that do not reach a critical value shall not be used.

7.2.3 Field Procedure.

7.2.3.1 Leak-Check Procedure. A leak-check before the sampling run is recommended, but is optional. The leak-check procedure is as follows:

Temporarily attach a suitable (e.g., 0–40 cc/min) rotameter and surge tank, or a soap bubble meter and surge tank to the outlet of the pump. Plug the probe inlet, pull an outlet vacuum of at least 254 mm Hg (10 in. Hg), and note the flow rate as indicated by the rotameter or bubble meter. A leakage rate not in excess of 2 percent of the average sampling rate ($\overline{Q_{std}}$) is acceptable. Carefully release the probe inlet plug before turning off the pump.

7.2.3.2 Moisture Determination. At the sampling location, prior to testing, determine the percent moisture of the ambient air using the wet and dry bulb temperatures or, if appropriate, a relative-humidity meter.

7.2.3.3 Critical Orifice Calibration. Prior to testing, at the sampling location, calibrate the entire sampling train using a 500-cc soap bubble meter which is attached to the inlet of the probe and an outlet vacuum of 25 to 50 mm Hg (1 to 2 in. Hg) above the critical vacuum. Record the information listed in Figure 6–4.

Calculate the standard volume of air measured by the soap bubble meter and the volumetric flow rate, using the equations below:

$$V_{sb(std)} = V_{sb}\left(\frac{T_{std}}{T_{amb}}\right)\left(\frac{P_{bar}}{P_{std}}\right) \qquad \text{Eq. 6-4}$$

$$Q_{std} = \frac{V_{sb(std)}}{\theta} \qquad \text{Eq. 6-5}$$

where:

P_{bar} = Barometric pressure, mm Hg (in. Hg).

P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).

Q_{std} = Volumetric flow rate through critical orifice, scm/min (scf/min).

T_{amb} = Ambient absolute temperature of air, °K (°R).

T_{std} = Standard absolute temperature, 273°K (528°R).

V_{sb} = Volume of gas as measured by the soap bubble meter, m^3 (ft^3).

$V_{sb(std)}$ = Volume of gas as measured by the soap bubble meter, corrected to standard conditions, scm (scf).

θ = Time, min.

Date _____ Train ID _____

Critical orifice size _____ Critical vacuum _____

		Pretest	Post-test
Soap bubble meter volume, V_{sb}	cc		
	m^3 (ft^3)		
Time, θ	sec		
	min		
Barometric pressure, P_{bar}	mm Hg (in. Hg)		
Ambient temperature, t_{amb}	°C (°F)		
Inlet vacuum, P_c	mm Hg (in. Hg)		
Outlet vacuum	mm Hg (in. Hg)		
$V_{sb(std)}$	m^3 (ft^3)		
Flow rate, Q_{std}	$\frac{m^3}{min}$ $\left(\frac{ft^3}{min}\right)$		

Figure 6-4. Critical orifice calibration data.

7.2.3.4 Sampling. Operate the sampling train for sample collection at the same vacuum used during the calibration run. Start the watch and pump simultaneously. Take readings (temperature, rate meter, inlet vacuum, and outlet vacuum) at least every 5 minutes. At the end of the sampling run, stop the watch and pump simultaneously.

Conduct a post-test calibration run using the calibration procedure outlined in Section 7.2.3.3. If the Q_{std} obtained before and after the test differ by more than 5 pecent, void the test run; if not, calculate the volume of the gas measured with the critical orifice, $V_{m(std)}$, using Equation 6-6 and the average of Q_{std} of both runs, as follows:

$$V_{m(std)} = \overline{Q}_{std}\,\theta_s\,(1-B_{wa})\left(\frac{P_{bar}+P_{sr}}{P_{bar}+P_c}\right) \qquad \text{Eq. 6-6}$$

where:

$V_{m(std)}$ = Dry gas volume measured with the critical orifice, corrected to standard conditions, dscm (dscf).

$\overline{Q}_{std}$ = Average flow rate of pretest and post-test calibration runs, scm/min (scf/min).

B_{wa} = Water vapor in ambient air, proportion by volume.

θ_s = Sampling time, min.

P_c = Inlet vacuum reading obtained during the calibration run, mm Hg (in. Hg).

P_{sr} = Inlet vacuum reading obtained during the sampling run, mm Hg (in. Hg).

If the percent difference between the molecular weight of the ambient air at staturated conditions and the sample gas is more than ±3 percent, then the molecular weight of the gas sample must be considered in the calculations using the following equation:

$$V_{m(std)} = \bar{Q}_{std}\,\theta_s\,(1-B_{wa})\sqrt{\frac{M_a}{M_s}}\left(\frac{P_{bar}+P_{sr}}{P_{bar}+P_c}\right) \qquad \text{Eq. 6-7}$$

where:

M_a = Molecular weight of the ambient air saturated at impinger temperature, g/g-mole (lb/lb-mole).

M_s = Molecular weight of the sample gas saturated at impinger temperature, g/g-mole (lb/lb-mole).

Note.—A post-test leak-check is not necessary because the post-test calibration run results will indicate whether there is any leakage.

Drain the ice bath, and purge the sampling train using the procedure described in Section 4.1.3.

3. By adding two Citations to the Bibliography as follows:

8. *Bibliography.*

* * * * *

11. Lodge, J.P., Jr., J.B. Pate, B.E. Ammons, and G.A. Swanson. The Use of Hypodermic Needles as Critical Orifices in Air Sampling. J. Air Pollution Control Association. *16*:197–200. 1966.

12. Shigehara, R.T., and Candace B. Sorrell. Using Critical Orifices as Method 5 Calibration Standards. Source Evaluation Society Newsletter. *10*(3):4–15. August 1985.

[FR Doc. 87–24940 Filed 10–27–87; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–25

[FPMR Temp. Reg. E–89]

Promotional Materials

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation contains rules concerning acceptance by Government employees of promotional materials such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value. The regulation is necessary to reflect the provisions of 5 CFR 735.202(b)(4), issued by the Office of Personnel Management (OPM), which allow Government employees to keep unsolicited advertising or gifts of nominal intrinsic value. The regulation will bring the FPMR into conformity with OPM regulations as they relate to acceptance of these types of items by Government employees.

DATES:

Effective date: October 28, 1987.

Expiration date: September 30, 1988.

Comments due on or before: December 31, 1987.

ADDRESS: Comments should be addressed to: General Services Administration (FFY), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Mr. John M. Boughton, Regulations and Policy Division (703–557–7525).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–25

Government property management.

(Sec. 205(c) 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter E to read as follows:

[FPMR Temp. Reg. E–89]

October 6, 1987.

Promotional Materials

1. *Purpose.* This regulation provides policy on promotional materials of nominal intrinsic value such as pens, pencils, note pads, and calendars.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires September 30, 1988, unless sooner superseded or incorporated into the permanent regulations of GSA.

4. *Applicability.* This regulation applies to all executive agencies.

5. *Background.* Prior to this regulation, the policy in § 101–25.103–1 and § 101–25.103–2 on promotional materials did not reflect the policy of the Office of Personnel Management (OPM) which allows Government employees to retain unsolicited advertising or gifts of nominal intrinsic value such as pens, pencils, note pads, calendars, etc., (see 5 CFR 735.202(b)(4)). This regulation has been prepared to incorporate the OPM policy into § 101–25.103–1 and § 101–25.103–2.

6. *Explanation of changes.*

a. Section 101–25.103–1 is revised to read as follows:

§ 101–25.103–1 General.

Promotional materials, trading stamps, or bonus goods received in connection with official Government business become the property of the Government except for unsolicited advertising or gifts of nominal intrinsic value (e.g., pens, pencils, note pads, calendars, etc.) which can be accepted by Government employees (see 5 CFR 735.202(b)(4)). Federal agencies in a position to receive promotional materials, trading stamps, or bonus goods, due the Government shall establish internal procedures for the receipt and disposition of these gratuities in accordance with § 101–25.103. The procedures shall provide for a minimum of administrative and accounting controls.

b. Section 101–25.103–2 is amended by revising paragraph (a) to read as follows:

§ 101–25.103–2 Promotional materials received in conjunction with official travel from transportation companies, rental car companies, or other commercial activities.

(a) Except for unsolicited advertising or gifts which are of nominal intrinsic value (e.g., pens, pencils, note pads, calendars, etc.), promotional materials (e.g., bonus flights, reduced-fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, etc.) received by employees in conjunction with official travel and based on the purchase of a ticket or other services (e.g., car rental) are properly considered to be due the Government and may not be retained by the employee. When an employee receives this type of promotional material, the employee shall accept the material on behalf of the United States and relinquish it to an appropriate agency official.

* * * * *

7. *Agency comments and assistance.* Comments or inquiries concerning the effect or impact of this regulation should be submitted to the General Services Administration (FFY), Washington, DC 20406, not later than December 31, 1987, for consideration and possible incorporation into a permanent regulation.

8. *Effect on other directives.* This regulation supersedes the provisions of § 101–25.103–1 and § 101–25.103–2(a).

T.C. Golden,

Administrator of General Services.

[FR Doc. 87–24923 Filed 10–27–87; 8:45 am]

BILLING CODE 6820–24–M

41 CFR Part 101-40

[FPMR Temp. Reg. A-23, Supp. 4]

Use of Carrier Contractors for Express Small Package Transportation

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement amends FPMR Temp. Reg. A-23 by extending the contract period for the express small package carrier, effective October 1, 1987.

DATES: Effective date: October 1, 1987. Expiration date: September 30, 1988, unless otherwise canceled or extended.

FOR FURTHER INFORMATION CONTACT: Charles T. Angelo, Director, Travel and Transportation Management Division (FBT), Washington, DC 20406, telephone FTS 557-1261 or commercial 703-557-1261.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-40

Freight, Government property, Moving of household goods, Office relocations, Transportation.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter A to read as follows:

[FPMR Temp. Reg. A-23; Supplement 4]

October 14, 1987.

Use of Carrier Contractors for Express Small Package Transportation

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation A-23 and supplement 3 thereto.

2. *Effective date.* This regulation is effective October 1, 1987.

3. *Expiration data.* This regulation expires September 30, 1988, unless otherwise canceled or extended.

4. *Explanation of change.* The expiration date in paragraph 3 of FPMR Temporary Regulation A-23 and supplement 3 thereto is revised to September 30, 1988.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87-24920 Filed 10-27-87; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 97

Consolidation of Grants to the Insular Areas

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is hereby providing notice that the final rule with comment period published March 25, 1987 (52 FR 9494) is now a final rule. The rule published March 25, 1987, amended the list of Department formula and block grant programs which may be consolidated by the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau).

EFFECTIVE DATE: March 25, 1987.

FOR FURTHER INFORMATION CONTACT: Howard A. Foard, Jr., Office of the Deputy Under Secretary, Department of Health and Human Services, Room 632F, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, (202) 245-6036.

SUPPLEMENTARY INFORMATION: On March 25, 1987, the Department published a final rule with a 60 day comment period amending 45 CFR Part 97 (52 FR 9494). This final rule added four new formula grant programs to the list of programs which may be consolidated by the insular areas:

(1) Dependent Care Planning and Development State Grants;

(2) The Family Violence Prevention and Services Act;

(3) The Children's Justice Act; and

(4) The Child Development Associate Scholarship Assistance Act.

The rule also deleted the Primary Care Block Grant as it had been repealed by Congress and the State Agency (Aging) Administration Grants as this is no longer a separate grant program.

In the final rule the Department gave interested persons until May 26, 1987, to submit comments. No comments were received; therefore, the Department affirms as a final rule the final rule published in the Federal Register of March 25, 1987.

Approved: October 22, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-24897 Filed 10-27-87; 8:45 am]

BILLING CODE 4130-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-516; RM-5515]

Radio Broadcasting Services; Marshall, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 259C1 for Channel 261A at Marshfield, Minnesota, as that community's first wide coverage area broadcast service, in response to a petition filed by KMHL Broadcasting Company. We have also authorized the modification of Station KKCK(FM)'s license to specify Channel 259C1 in lieu of Channel 261A. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-516, adopted September 28, 1987, and released October 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments under Minnesota is amended

by deleting Channel 261A and adding Channel 259C1 at Marshall.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-24863 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-19; RM-5624]

Radio Broadcasting Services; Tremonton, UT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 286C2 for Channel 285A at Tremonton, Utah, and modifies the license of Station KKVU-FM to specify operation on the new frequency, at the request of McAlester Broadcasting Systems of Utah, Ltd., as that community's first wide coverage area FM station. A site restriction of 16.5 kilometers (10.2 miles) south of the city is required. With this action, this proceeding is terminated.

EFFECTIVE DATES: December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-19, adopted September 30, 1987, and released October 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Tremonton, Utah, by deleting Channel 285A and adding Channel 286C2.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-24864 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-92; RM-5422, RM-5618, RM-5670]

Radio Broadcasting Services; Cedar Bluff and Richlands, VA and Welch, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 299A to Cedar Bluff, Virginia, Channel 264A to Richlands, Virginia and Channel 275A to Welch, West Virginia at the request of Cedar Bluff Broadcasting, Inc., licensee of Station WYRV-AM, Cedar Bluff, Clinch Valley Broadcasting Corporation, licensee of AM Station WRIC, Richlands, Virginia and Jama Burnett, respectively. Channel 299A at Cedar Bluff requires a site restriction of 2.3 kilometers (1.4 miles) north of Cedar Bluff. Channel 264A at Richlands requires a site restriction of 9.6 kilometers (6 miles) west of the community. A site restriction of 1.6 kilometers (1 mile) south of Welch is required for Channel 275A. With this action, this proceeding is terminated.

DATES: Effective December 4, 1987. The window period for filing applications will open on December 7, 1987, and close on January 6, 1988.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-92, adopted September 30, 1987, and released October 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Virginia by adding Channel 299A at Cedar Bluff and Channel 264A at Richlands; and by adding Channel 275A at Welch, West Virginia.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-24861 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-69; RM-5652]

Television Broadcasting Service; Provo, UT

AGENCY: Federal Communications Commission.

ACTON: Final rule.

SUMMARY: This document allots UHF Television Channel 32 to Provo, Utah, as that community's second commercial televison service, at the request of Provo Television, Inc. The allotment can be made consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules. Although the Commission has imposed a freeze on TV allotments, or applications therefore in specified metropolitan areas pending the outcome of an inquiry into the uses of advanced television systems (ATV) in broadcasting, this proposal is not affected thereby. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-69, adopted September 25, 1987, and released October 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commision's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Allotments, is amended by adding Channel 32 at Provo, Utah.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Docket 87-24865 Filed 10-26-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-390; FCC 87-297]

Television Broadcasting Services; Ventura, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this document, the Commission on its own motion substitutes UHF Channel 51 for UHF Channel 16 in Ventura, California.

EFFECTIVE DATE: November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-390, adopted September 10, 1987, and released September 30, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors. International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

In this proceeding, the Commission had proposed allotting Channel 25 because it met the specific sites proposed by the two applicants for Channel 16; but due to technical problems associated with the proposal and lack of interest by the applicants, it decided not to allot Channel 25. The Commission also decided not to allot Channel 38, an alternate channel proposed by the applicants.

The Commission allotted Channel 51, because the allotment could be made in compliance with the minimum distance separation requirements and would provide a second UHF broadcast facility to Ventura. The Channel 51 allotment is not affected by the current freeze on new allotments of television channels, since this allotment is viewed as a substitute for Channel 16. Interested parties can only apply for Channel 51 after the freeze is lifted if both applicants for Channel 16 are deemed ineligible and have exhausted their administrative or judicial remedies or they are declared eligible and have failed to amend their applications within a 90-day period from the date of eligibility.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

1 The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. In § 73.606(b) the Table of Television Allotments is amended for Ventura, California, by deleting UHF Channel 16 and adding UHF Channel 51.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-24862 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-428; RM-5335]

Television Broadcasting Services; Peoria, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document removes the educational reservation on UHF television Channel 59 at Peoria, Illinois, making it available for commercial use, and reserves Channel *47 for noncommercial educational use at Peoria. Channel 47 is presently in use by Station WTVP(TV), Peoria, Illinois. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 7, 1987.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-428, adopted September 30, 1987, and released October 22, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments is amended in the entry for Peoria, Illinois by deleting Channel 47—, and adding *47—, deleting Channel *59+ and adding 59+.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-24857 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-359; RM-5369; RM-5587; RM-5664; RM-5665]

Radio Broadcasting Services; Churubusco, Huntington, Roanoke, and South Whitley, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 242A to Churubusco, Indiana as that community's first FM channel at the request of Consumers Aid, Inc. In response to counterproposals filed by Huntington Broadcasting Corporation; Judith Selby and Gary Salach it also allocates Channel 275A to Huntington, Indiana and modifies the license of Station WIOE, Channel 276A, Huntington to specify Channel 275A; Channel 286A to Roanoke, Indiana as that community's first FM channel; and Channel 266A to South Whitley as that community's first FM channel. With this action this proceeding is terminated.

DATES: Effective December 7, 1987. The window period for filing applications will open on December 8, 1987, and close on January 7, 1988.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-359, adopted September 30, 1987, and released October 22, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended by adding the entries of Channel 242A to Churubusco; Channel 275A to Huntington; Channel 286A to Roanoke; and Channel 266A to South Whitley all in the state of Indiana; and deleting the entry of Channel 276A to Huntington, Indiana.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-24858 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 80

[PR Docket No. 87-10; FCC 87-322; RM-5576]

Maritime Service; Amendment To Permit Installation of Radar Equipment on Voluntarily Equipped Ships by Non-licensed Persons

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This new rule permits installation of radar on any voluntarily equipped ship by the station licensee or by someone who is under the supervision of the station licensee. In either case the person installing the radar equipment is not required to have an FCC operator license. This action was initiated by a petition for rulemaking filed by SI-TEX Marine Electronics Inc. (SI-TEX). The adopted rule eliminates the need for persons who install radar equipment on voluntarily equipped ships to have an FCC operator license.

EFFECTIVE DATE: December 7, 1987.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William P. Berges, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted October 9, 1987, and released October 21, 1987. The full text of this Commission decision including the adopted rule is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The full text of this decision including the proposed rule change may also be purchased from the Commission's contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. On February 12, 1987, the Commission released a *Notice of Proposed Rule Making*, PR Docket No. 87-10, FCC 87-31, which proposed to permit installation of radar on any voluntarily equipped ship by the station licensee or by someone who is under the supervision of the station licensee. In either case the person installing the radar equipment would not be required to have an FCC operator license. This action was taken in response to a petition for rulemaking (RM-5576) filed by SI-TEX Marine Electronics Inc. The *Report and Order* discusses the comments filed by the public regarding this proposal and amends the rules to allow such installations by persons without an FCC operator license.

2. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the adopted rule will not have a significant economic impact on a substantial number of small entities. This action permits persons without FCC operator licenses to install radar equipment on ships not required to carry radar.

3. The Report and Order contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

4. This Report and Order is issued under the authority of 47 U.S.C. 154(i) and 303(g).

5. A copy of this Report and Order will be served on the Chief Counsel for Advocacy of the Small Business Administration.

6. It is ordered, that Part 80 of the Commission's rules is amended as shown below. It is further ordered, That this proceeding is terminated.

List of Subjects in 47 CFR Part 80

Radio.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Amended Rules

Part 80 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for Part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303 unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

2. In § 80.177 a new paragraph (d) is added to read as follows:

§ 80.177 When operator license is not required.

* * * * *

(d) No radio operator license is required to install a radar station on a voluntarily equipped ship when a manual is included with the equipment that provides step-by-step instructions for the installation, calibration, and operation of the radar. The installation must be made by, or under the supervision of, the licensee of that ship station and no modifications or adjustments other than to the front panel controls are to be made to the equipment.

3. In § 80.203 a sentence is added at the end of paragraph (b) to read as follows:

§ 80.203 Authorization of transmitters for licensing.

* * * * *

(b) * * * Manufacturers of radar equipment intended for installation on voluntarily equipped ships by persons without FCC operators license must include with their equipment authorization application a manual that

provides step-by-step procedures for the installation, calibration, and operation of the radar stations.

* * * * *

[FR Doc. 87-24869 Filed 10-27-87; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule Determining Asclepias welshii (Welsh's Milkweed) To Be a Threatened Species With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Asclepias welshii* (Welsh's milkweed) to be a threatened species and designates its critical habitat. This species is known to occur only in the Coral Pink Sand Dunes and in the Sand Hills 8 miles to the northeast of the Coral Pink Sand Dunes, both in Kane County, Utah. In the Coral Pink Sand Dunes, about 6,000 plants occur on lands administered by the Bureau of Land Management. An estimated 4,000 plants are thought to occur on State of Utah land in the Coral Pink Sand Dunes State Park, while about 500 plants are estimated to grow in the Sand Hills northeast of the Coral Pink Sand Dunes. Altogether, the total population of this species is thought to be no more than 11,000 plants. The population in the Coral Pink Sand Dunes is disturbed by off-road-vehicle activity. Portions of the areas in which both populations occur are leased for oil and gas. This final rule implements for this species the protection provided by the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is November 27, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Service's Regional Fish and Wildlife Enhancement Office at 134 Union Boulevard, Fourth Floor, Lakewood, Colorado, and the Fish and Wildlife Enhancement Field Office at Room 2078 Administration Building, 1745 W. 1700 S., Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: John L. England, Botanist, at the above Salt Lake City address (801/524-4430 or FTS 588-4430).

SUPPLEMENTARY INFORMATION:

Background

Asclepias welshii (Welsh's milkweed) is a member of the family Asclepiadaceae (milkweed family). It was described by Holmgren and Holmgren (1979) from plants collected on the Coral Pink Sand Dunes (Dunes) in Kane County, Utah. Five earlier collections were made in this area between 1954 and 1978 by W. Cottam, A.H. Barnum, N. Holmgren, and S.L. Welsh (Holmgren and Holmgren 1979). This plant is a rhizomatous, herbaceous perennial, 10 to 40 inches tall, with large oval leaves and cream-colored flowers that are rose-tinged in the center. It grows on open, sparsely vegetated semi-stabilized sand dunes and on the lee slopes of actively drifting sand dunes.

The population consists of approximately 11,000 individuals in several concentrations distributed more or less randomly over the Coral Pink Sand Dunes, with scattered individuals between concentrations and in an area of the Sand Hills to the northeast. In the Coral Pink Sand Dunes area administered by the Bureau of Land Management (Bureau), a careful survey disclosed about 6,000 plants in 12 concentrations (Bureau 1980). On State of Utah land (Coral Pink Sand Dunes State Park), there are an estimated 4,000 plants, while in the small Bureau-administered area of the Sand Hills to the northeast, there are an estimated additional 500 plants. A Bureau survey in September 1984, showed a population of about 4,000 plants (Bureau 1984, Service 1986c); the State Park estimated a population of about the same size occurring within the State Park. The plants grow on both the tops and sides of the dunes.

In the summer of 1980, field work was carried out at the Coral Pink Sand Dunes site by a Bureau botanist (Bureau 1980). This investigation involved mapping groups of plants and counting the plants on the dunes by age class. The investigation showed that off-road vehicles were modifying the habitat and destroying Welsh's milkweed plants and that domestic livestock were utilizing this species as a forage plant.

On December 15, 1980, the Service published a notice of review for plants in the **Federal Register** (45 FR 82480), which included *Asclepias welshii* as a Category 1 species. Category 1 comprises taxa for which the Service presently has substantial information on biological vulnerability and threats to support the appropriateness of proposing to list as endangered or threatened species. For administrative purposes, all plants included in that review are treated as being under petition. A finding was made on October 13, 1983, that listing *Asclepias welshii* was warranted but precluded by pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Endangered Species Act (Act). Such petitions are recycled under section 4(b)(3)(C)(i). The Service published a proposed rule to list *Asclepias welshii* as an endangered species on June 6, 1984 (49 FR 23399), constituting the next 1-year finding, which was required on or before October 13, 1984.

Summary of Comments and Recommendations

In the June 6, 1984, proposed rule (49 FR 23399) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice that invited general public comment was published in the Southern Utah News on June 27, 1984. Seventeen written comments were received. A public hearing was requested by the State of Utah, and was held in Kanab, Utah, on September 18, 1984 (see September 4, 1984, **Federal Register** (49 FR 34879)). Six formal oral comments were presented, two of which had been previously received as written comments, for a total of 21 comments.

Eleven comments, four from the State of Utah, five from the Bureau, one from the City of Kanab, and one from Kane County, maintained that recreational off-road-vehicle use (i.e., by dune buggies and three-wheel all-terrain vehicles) is not a threat sufficient to cause the extinction of *Asclepias welshii*. Those comments that provide detail cite the following reasons: (1) *Asclepias welshii* is apparently adapted to the naturally unstable drifting sands of the Coral Pink Sand Dunes; (2) the plant is increasing in numbers with the current level of off-road-vehicle use; (3) off-road-vehicle use is concentrated on unvegetated active dunes and trails through the semi-stabilized vegetated dunes which have few if any *Asclepias welshii* plants; (4) the deep-seated rhizome of *Asclepias welshii* is not subject to disturbance; and (5) no long-term studies exist of the population trend of *Asclepias welshii*, and short-term studies and inventories indicate a population increase.

The Service agrees that *Asclepias welshii* is adapted to the naturally unstable drifting sands of the Coral Pink Sand Dunes and is a significant

component of the flora of the Dunes. It is a colonizer of the unvegetated dunes in the sequence of plant succession on the Dunes. Many plant species adapted to sand dunes establish themselves either by seed or vegetatively in interdune areas in the lee of the approaching sand dune. These individual plants are then able to grow at rates great enough to stay ahead of the rate of wind deposited sand accumulation in the lee of the sand dune proper. As the crest of the sand dune reaches the position of the plant, sand accumulation ceases and wind erosion on the windward side of the plant begins. Sand dune-adapted plants often have fibrous roots or rhizomatous rootstocks (*Asclepias welshii* has a rhizomatous rootstock) that are able to hold sand in place and thus initiate the stabilization of dunes. Mechanical disturbance can break the vegetative cover that has stabilized or partially stabilized sand dunes, thus making them more active. Plants damaged by off-road-vehicle use often are unable to respond to drifting sand and sometimes are buried and die. Observations of the habitat of *Asclepias welshii* show that the southern portion of the Coral Pink Sand Dunes are more actively drifting and less vegetated, on the whole, than the northern portion. The southern portion of the Dunes is also the area that receives the greatest concentration of off-road-vehicle use, due to the proximity of developed recreational facilities (i.e., campgrounds with sanitary facilities and water) and to its open, less-vegetated condition. Highly active dunes will sometimes overwhelm the ability of even well-adapted dune plants to keep pace with the drifting sand. Contrary to statements that off-road-vehicle use is not directly affecting *Asclepias welshii* are observations by other commenters and Service personnel that actual direct disturbance of individual *Asclepias welshii* plants by off-road vehicles is occurring (Service 1986 a and b). An additional significant effect would be damage to rhizomes and roots and interference with seedling establishment. Such cryptic effects are likely to cause loss of vigor and reduction of reproductive success in the population. Information for other plant species indicates that population declines will occur even without evidence of widespread damage to individual plants. The Service concludes that off-road-vehicle use is destroying individual *Asclepias welshii* plants and adversely modifying the species habitat.

Studies of the effects of off-road-vehicle use on dune-adapted plants (e.g., Luckenbach and Bury 1983) have shown significant reductions in density and diversity of vegetative cover in dunes subject to off-road-vehicle traffic. The relatively new three-wheel and four-wheel off-road vehicles, unlike the traditional dune buggies, have tires that are less expensive and not as susceptible to damage from vegetation. Thus there is an increase in use of the new type vehicles on the more vegetated portion of the dunes, which are modifying the habitat and destroying individuals of *Asclepias welshii* (Service 1986a and 1986b).

Many factors affect the rate of sand dune drifting and plant growth. Periods of high wind and low precipitation, especially in the arid area of the Coral Pink Sand Dunes, would increase the rate of sand drifting and decrease the ability of plants to vegetatively and reproductively keep pace with the drifting dunes. Destabilization of vegetated dunes by off-road-vehicle use during such periods would accelerate sand movement to a point that exceeds the tolerance of *Asclepias welshii* plants. Thus, the Service maintains that off-road-vehicle use is a threat, which in certain circumstances would be severe, to *Asclepias welshii.*

There are no long-term studies of the population trend of *Asclepias welshii.* The 1980 Bureau census of the *Asclepias welshii* populations on Federal lands showed a population of 5,340 individuals. Four years later in 1984, a followup survey by the Bureau, in response to the Service proposal to list *Asclepias welshii* as an endangered species, showed a population of fewer than 4,000, demonstrating a significant decline in the mid-term (Bureau 1980 and 1984, Service 1986c). Short-term studies have been inconclusive. A Bureau study of a single 25-square-foot plot established in 1983 found a 15-percent increase in aboveground stems in 1984. This finding may represent the increase in vigor of a single individual, and cannot be taken as a statistically significant indicator of the population as a whole. In addition, the area of the Coral Pink Sand Dunes has gone through a period of about 6 or 7 years of above-normal precipitation that, as described above, may have tended to slow sand dune activity and enhance the growth and reproduction of *Asclepias welshii.* The short drought during the winter of 1983–84, given the ability of sand to store water and readily yield it to plants, probably was not long enough to have had a significant impact on sand dune vegetation, including *Asclepias welshii.* The Service maintains that, because it is totally endemic to the Coral Pink Sand Dunes and nearby Sand Hills, and because off-road-vehicles are modifying its habitat in some areas and threaten to disturb its habitat throughout the majority of its range, *Asclepias welshii* is threatened by off-road-vehicle activity.

Eight comments, two from the State of Utah, two from the Bureau, two from private citizens, and one each from the City of Kanab and Kane County, maintained that grazing is not a threat to *Asclepias welshii.* Those comments that provide detail cite the following reasons: (1) The genus *Asclepias* as a group is toxic and *Asclepias welshii* is probably at least moderately toxic to livestock; (2) livestock do not effectively use dune areas for grazing; (3) current grazing use and allowed maximum use under current grazing plans is much less than historical grazing use prior to Federal management of grazing by the Bureau.

The Service agrees that members of the genus *Asclepias* contain poisonous compounds; however, the degree of toxicity varies greatly among individual species. There is no documented evidence that *Asclepias welshii* has been responsible for livestock or wildlife poisoning. On the contrary, it has been documented that *Asclepias welshii* is at least palatable to range livestock and is not a threat to them (Bureau 1980). The Service recognizes that it is difficult for hoofed animals to traverse sand dunes, so that most of the population of *Asclepias welshii* is out of the range of probable impact from grazing livestock. Current grazing use is less than the species endured historically and is at levels that appear to pose no significant threat to *Asclepias welshii.* The Service, therefore, agrees that *Asclepias welshii* appears not to be threatened by livestock grazing, despite the occasional grazing of *Asclepias welshii* plants at the perimeter of its habitat.

Three comments, one each from the Mayor of Kanab, the State of Utah, and the Bureau, maintain that the Bureau has adequate management authority to provide for the conservation of *Asclepias welshii.* While the Bureau does provide for the management of lands and species under its control, Welsh's milkweed populations have declined. The listing of *Asclepias welshii* as threatened will reinforce existing Bureau authority to take measures necessary to prevent the decline of this species. The fact that the Bureau considers the species in need of special protective management tends to support the Service's assessment and recognition of its status under the Act.

One comment from the State of Utah argued that the listing of *Asclepias welshii* as endangered and the

designation of its critical habitat in the Coral Pink Sand Dunes is contrary to the purpose of the State Park and the intent of the Utah State Legislature in establishing and funding the Coral Pink Sand Dunes State Park. The Service recognizes legitimate uses for the Coral Pink Sand Dunes other than as habitat for the conservation of *Asclepias welshii*. The listing of *Asclepias welshii* as threatened reflects the Service's assessment of the threats posed to the species; potential effects of economic or other activities may not be considered in making such a listing determination. The designation of the Coral Pink Sand Dunes as critical habitat will not have a direct effect on the State of Utah and the Coral Pink Sand Dunes State Park. However, half of the Coral Pink Sand Dunes are on Federal land managed by the Bureau and used by recreational vehicles based at the State Park. The Service encourages the State of Utah to participate in the conservation of *Asclepias welshii* and to participate with the Service, the Bureau, and other interested and affected groups in developing a management plan that will provide for the conservation of *Asclepias welshii* as well as recreational use of the Dunes.

One comment from the State of Utah stated that the listing of *Asclepias welshii* and designating critical habitat would draw adverse attention to the plant from possible vandals. The Service is also concerned that this may happen; however, it is the Service's position that the benefits to the species as a consequence of its listing as threatened will offset the possible negative effects of undue notoriety. The conservation and recovery of the species may include a program of public education to develop sensitivity toward the species and its part in the biological heritage of the region and the nation. The same comment from the State of Utah stated that since there are two populations of the species, one at the Coral Pink Sand Dunes and the other in the nearby Sand Hills, there is no need to designate critical habitat. The Service maintains that both populations are essential for the survival and recovery of *Asclepias welshii* and that designation of critical habitat for both populations is desirable and appropriate.

One comment from the Bureau pointed out that the proposed rule described *Asclepias welshii* as "10 cm" tall. This was a typographical error in the proposed rule; *Asclepias welshii* is about 100 centimeters (40 inches) tall at maturity.

Four comments from professional botanists stated that *Asclepias welshii* is a narrow endemic restricted entirely to the Coral Pink Sand Dunes and the nearby Sand Hills and is vulnerable to habitat destruction.

Four comments, three from professional botanists and one from a private citizen, stated that a designation of critical habitat is appropriate for this species. The three botanists based their statements on the fact that they expected no commercialization through collecting and trade of *Asclepias welshii* and thus the publication in the **Federal Register** of its occupied habitat through a critical habitat designation would not adversely affect the species' populations. The private citizen based his support of the critical habitat designation on the existence of the Coral Pink Sand Dunes tiger beetle (*Cicindela limbata albissima*), which is endemic to the Coral Pink Sand Dunes and may face the same threats as *Asclepias welshii*. The listing of *Asclepias welshii* and designation of its critical habitat may incidentally provide some degree of habitat protection for this tiger beetle. The Service is also evaluating the status of the tiger beetle as time and funds permit to determine the appropriateness of designating it as endangered or threatened under the Act (see notice of review, 49 FR 21663, May 22, 1984).

Six comments, five from professional botanists and one from a private individual, state that off-road-vehicle use damages dune vegetation. Two of these botanists have observed direct destruction of *Asclepias welshii* plants by off-road-vehicle use.

Four comments, three from professional botanists and one from a conservation group, agreed with the Service's proposed rule to list *Asclepias welshii* as an endangered species and designate its critical habitat. One comment from a professional botanist suggested that the available biological evidence and the nature and degree of threats to *Asclepias welshii* suggest that threatened status is most appropriate for this species. After reappraising the population data, reconsidering the degree and nature of threats, determining that the current level of grazing is not a threat to the species, and learning that the State has drafted a general management plan that would control the effects of off-road-vehicle traffic on dune vegetation, the Service finds that *Asclepias welshii* is not endangered as defined by the Act. However, given its vulnerability, the modification of its habitat, and the existence of threats to its population, it does fully meet the definition of threatened, as defined by the Act.

One comment from an off-road-vehicle user group urged the Service not to Close the Dunes to recreational off-road-vehicle use, and suggested that responsible off-road-vehicle recreationists would cooperate with the land-managing agencies, including the State of Utah and the Bureau, in educating and policing their ranks to ensure that stands of endangered plant species would be conserved. They hoped that their use of the Dunes could continue under necessary regulations to protect dune vegetation and *Asclepias welshii*. The Service is encouraged by the attitude shown by this group and will work with the land-managing agencies at the Coral Pink Sand Dunes to develop the vegetation and recreation management plans necessary to conserve *Asclepias welshii*.

While a final rule was being developed, a draft of the rule and accompanying economic analysis of the designation of critical habitat was provided to the Governor of Utah. In a letter to the Secretary of the Interior dated November 1, 1985, the Governor expressed disagreement with several aspects of the rule and analysis. These comments and the Service's responses are provided below:

The Governor questioned the adequacy of scientific knowledge of the species to support its listing and suggested that the Service, the Bureau, and the State initiate further studies to evaluate its status before a final status determination is made. The Service agrees that the species, which was only formally described in 1979, is not especially well understood biologically, but as noted above, the Service believes that available information is sufficient to support a determination that it is threatened.

The Governor also maintained that designation of critical habitat for this species could cause a direct negative impact on Coral Pink Sand Dunes State Park and its operations. As noted above, the Service expects no direct effect on Park operations as a result of the designation, which would only affect activities authorized, funded, or carried out by Federal agencies by requiring that such activities avoid destroying or adversely modifying critical habitat. Inasmuch as there is no known Federal involvement in the management of the Park, the Service continues to maintain that designation would not directly affect Park operations. The Service is pleased to note that the State has developed a draft management plan for the Park that would control the effects of off-road-vehicle traffic on dune vegetation. The draft plan provides

conservation zones that will provide some protection to Welsh's milkweed and its critical habitat through the regulation of off-road-vehicle use in the Park.

Addressing the draft economic analysis, the Governor objected that a statement to the effect that up to 2,000 vehicles might be on the dunes at a given time was misleading. The Service believes the Governor's objection was based on a misunderstanding of the draft analysis. The figure of 2,000 vehicles was given as an upper limit for visitor use of the dunes in estimating the number of persons that might be affected if the designation led to restrictions on activities at the Park. In fact no such impact is expected, and the figure of 2,000 visitors does not appear in the final, approved analysis.

Finally, the Governor contended that existing State regulatory mechanisms are adequate to protect *Asclepias welshii*. The Service maintains that adverse habitat modification has occurred under existing regulations. The Service believes the listing will not replace, but rather reinforce and complement protection afforded under State authority. There should be no inconsistency or conflict between Federal and State protection of the species.

Summary of Factors Affecting the Species

After a thorough review and consideration of all scientific and commercial information available, the Service has determined that *Asclepias welshii* (Welsh's milkweed) should be classified as a threatened species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Asclepias welshii* Holmgren and Holmgren (Welsh's milkweed) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Asclepias welshii*, with the exception of a very small population in the Sand Hills, is totally endemic to the Coral Pink Sand Dunes. The Dunes are utilized primarily for recreational off-road-vehicle use. Off-road-vehicle use is adversely modifying the habitat and destroying individual plants of *Asclepias welshii*. Variations in the use of various areas in the Dunes and the variations in abundance of *Asclepias welshii* in those same areas indicate that off-road-vehicle use has had a negative impact on *Asclepias welshii*. In the absence of protection for this plant under the Act, unrestricted off-road-vehicle use will degrade the Coral Pink Sand Dune population further. Continued habitat destruction from off-road-vehicle use will conceivably cause its extirpation from a considerable portion of its current range within the Dunes. In addition, a significant portion of the critical habitat is under lease for oil and gas development. The development of these leases, without consideration for *Asclepias welshii*, might affect the species. However, oil and gas development is not considered a threat to the species at this time due to "no surface occupancy" stipulations on oil and gas leases within the Coral Pink Sand Dunes, and the low potential for oil and gas development within and in the vicinity of the species' critical habitat. Additional details concerning oil and gas leasing and the lease stipulations are provided under the "Critical Habitat" section of this rule.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* Although livestock grazing on *Asclepias welshii* does occur on a limited basis, it is not believed that current grazing levels on this plant constitute any threat to its continued existence.

D. *The inadequacy of existing regulatory mechanisms.* There are no Federal, State, or local laws or regulations that specifically apply to this species or provide for its protection. Section 13 of the Utah Recreation Vehicle Act (Utah Code Annotated 41-22-13 [1981], enacted by Chapter 107, Laws of Utah 1971) states: "No person shall operate a recreation vehicle in connection with acts of vandalism, harassment of wildlife or domestic animals, burglaries or other crimes, or damage to the environment which includes pollution of air, water or land, abuse of the watershed, impairment of plant or animal life or excessive mechanical noise." The State of Utah's Department of Parks and Recreation is of the opinion that it would be able to provide effective conservation of *Asclepias welshii* and its critical habitat, given the above State statute, financial assistance, and a workable interagency agreement with the Bureau to manage recreational use of the entire Coral Pink Sand Dunes. However, existing regulatory measures have not prevented this species from becoming threatened. Without positive steps prompted by the Federal designation of *Asclepias welshii* as a threatened species, the current status of *Asclepias welshii* will likely decline to endangered in the foreseeable future.

E. *Other natural or manmade factors affecting its continued existence.* The arid climate and unstable habitat of *Asclepias welshii* make its ecosystem a fragile one, vulnerable to degradation by surface disturbances.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Asclepias welshii* as threatened. This is based on the fact that the species exists in low numbers and occurs in a limited fragile ecosystem that is presently disturbed by off-road-vehicle use. A designation of critical habitat was considered prudent in this case because most of the plants are known to occur on Federal lands and would benefit from such a designation. A decision to take no action on *Asclepias welshii* would exclude this species from needed protection available under the Act. *Asclepias welshii* occupies much of the habitat available to the species and is probably capable of maintaining its populations providing the threat of extreme habitat disturbance is controlled. If control of off-road-vehicle use is not adequate, however, the species would be likely to undergo decline to the point at which extinction is probable. *Asclepias welshii* is not at present in danger of extinction, however, and therefore listing as an endangered species would not be warranted.

Although the Service proposed to list the milkweed as an endangered species, a careful reappraisal of status information upon which the proposed rule was based, together with an analysis of scientific information received during the public comment period, persuaded the Service that this species is not now endangered. The current level of grazing does not appear to pose a threat to the milkweed, and current habitat management efforts are such that the milkweed is not in immediate danger of extinction.

Critical Habitat

Critical habitat, as defined by Section 3 of the Act, means: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that

may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximun extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is designated for *Asclepias welshii* to include about 4,000 acres of sand dune habitat in the Coral Pink Sand Dunes and the Sand Hills area in Kane County, Utah. The Coral Pink Sand Dunes are a clearly definable and recognizable geographic entity, readily located on published U.S. Geological Survey maps. The critical habitat of *Asclepias welshii* within the Sand Hills is defined by a legal land description. The known primary constituent element is considered to be the sand dunes themselves.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) which may adversely modify such habitat or may be affected by such designation. Livestock grazing is no longer considered a threat to the critical habitat. Additional information has indicated that cattle graze only at the perimeter of the sand dunes included as critical habitat. Cattle also have difficulty traversing sand dunes and are seldom, if ever, put to graze within the critical habitat. Continued surface disturbance by recreational off-road vehicles, however, is adversely affecting the critical habitat. This activity will need to be regulated or modified to take into account the effects on critical habitat. In addition, the entire critical habitat area is leased or is available for oil and gas leasing. The potential exists for habitat damage if the recovery of mineral resources is not done in a manner that avoids destruction of the critical habitat of *Asclepias welshii.* However, the Bureau has informed the Service that the potential for oil and gas development within and in the vicinity of critical habitat is low. The Bureau has also imposed "no surface occupancy" stipulations on oil and gas leases to exclude onsight drilling within the Coral Pink Sand Dunes. These stipulations were imposed to preserve the recreational value of the Coral Pink Sand Dunes, and are compatible with the critical habitat designation. Therefore, oil and gas leasing is not expected to affect or be affected by the designation of critical habitat.

Regulation or modification of adverse activities might include restricting off-road-vehicle use to existing roads and trails or excluding use from certain areas or during particular times when the critical habitat may be most vulnerable to disturbance.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service has considered the critical habitat designation in light of relevant additional information obtained. No siginificant economic or other impacts are expected to result from the critical habitat designation. This conclusion is based on no known involvement of Federal funds or permits for off-road-vehicle activities within the Coral Pink Sand Dunes State Park, voluntary efforts between the State of Utah and the Bureau to develop a joint management plan for the Coral Pink Sand Dunes, the absence of any active mineral claims or oil and gas development within or in the vicinity of critical habitat, "no surface occupancy" stipulations on oil and gas leases to preserve the recreational value of the Coral Pink Sand Dunes, additional information that livestock grazing is not expected to affect the critical habitat, and the unquantifiable benefits that may result from the critical habitat designation.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies, prohibitions against collecting, and possible recovery actions are discussed, in part, below.

Section 7 (a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Possible effects of critical habitat designation on the Bureau have already been discussed. Known Federal activities that may affect Welsh's milkweed are sanctioned use of off-road vehicles within the species habitat and permitting actions in response to oil and gas development. The Bureau is already consulting with the Service, and additional impacts due to this listing are expected to be minimal.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *Asclepias welshii,* all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. No such trade in *Asclepias welshii* is known. It is anticipated that few trade permits will ever be sought or issued for *Asclepias welshii* since it is neither a desirable species for collectors nor common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. Section 4(d) allows for the provision of such protection to threatened species through regulations. This protection will apply to *Asclepias welshii* under regulations codified at 50 CFR Part 17. These regulations also provide permits for exceptions to this prohibition. *Asclepias welshii* is found on both Federal and State of Utah lands. It is likely that few collecting permits for *Asclepias welshii* will ever be requested. Requests for copies of the regulations on plants and

inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

Recovery actions that should enhance the status of *Asclepias welshii* would include the development and implementation of a comprehensive recreation and habitat management plan for the Coral Pink Sand Dunes and the species. Such a plan could provide conservation areas within the Dunes dedicated to maintaining the *Asclepias welshii* population and the natural biotic and abiotic components of the dune ecosystem.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major rule under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The critical habitat of *Asclepias welshii* is located on State and Federal lands. About 1,900 acres of critical habitat are on Federal lands administered by the Bureau, and about 2,100 acres of critical habitat are on State of Utah lands administered by the Utah Division of Parks and Recreation. Based on the economic and other impact information already discussed, no significant economic or other impacts are expected to result from the critical habitat designation. In addition, no direct costs, enforcement costs, or information collection or recordkeeping requirements are imposed on small entities by this designation. These determinations are based on a Determination of Effects of Rules that is available at the Service's Salt Lake City Field Office, Room 2078 Administration Building, 1745 W. 1700 S., and Denver Regional Office, 134 Union Boulevard, fourth floor, Lakewood, Colorado.

References Cited

Bureau of Land Management. 1980. Study on *Asclepias welshii* on the Coral Pink Sand Dunes and the Sand Hills. Unpbl. report prepared by the Cedar City District; Utah, on file at the U.S. Fish and Wildlife Service's Regional Office, Denver, Colorado. 5pp.

Bureau of Land Management. 1984. Letter to Dr. James L. Miller, U.S. Fish and Wildlife Service, Denver, Colorado.

Fish and Wildlife Service. 1986a. Off-road-vehicle impacts on *Asclepias welshii* at the Sand Spring vicinity of the Coral Pink Sand Dunes during the Memorial Day Weekend of 1986. Unpubl. report on file at the U.S. Fish and Wildlife Service's Salt Lake City Field Office, Salt Lake City, Utah. 2pp.

Fish and Wildlife Service. 1986b. Field Report, *Asclepias welshii* Unpubl. report on file at the U.S. Fish and Wildlife Service's Salt Lake City Field Office, Salt Lake City, Utah. 1p.

Fish and Wildlife Service. 1986c. Relationship between the 1980 Bureau of Land Management study on *Asclepias welshii.* (Anderson Report) and the 1984 Bureau survey of *Asclepias welshii* (Kanab Resource Area Report). Memorandum to the files on file at the U.S. Fish and Wildlife Service's Regional Office, Denver, Colorado.

Holmgren, N.H. and P.K. Holmgren. 1979. A new species of *Asclepias* (Asclepiadaceae) from Utah. Brittonia 31(1):110–114.

Luckenback, R.A. and R.B. Bury. 1983. Effects of off-road vehicles on the biota of the Algodones Dunes, Imperial County, California. Journal of Applied Ecology 20:265–286.

Author

The primary author of this rule is John L. England, Botanist, U.S. Fish and Wildlife Service, Salt Lake City Field Office, Salt Lake City, Utah. Dr. James L. Miller, Botanist, U.S. Fish and Wildlife Service, Denver, Colorado, served as editor. Jane O. Yager, Economist, Office of Endangered Species, Washington, DC, edited the portions of the rule dealing with the effects of designating critical habitat.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order, under Asclepiadaceae to the list of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asclepiadaceae—Milkweed family:						
Asclepias welshii	Welsh's milkweed	U.S.A. (UT)	T	295	17.96(a)	NA

3. Amend § 17.96(a) by adding critical habitat of *Asclepias welshii* preceding that of *Stephanomeria malheurensis* as follows:

§ 17.96 Critical habitat—plants.

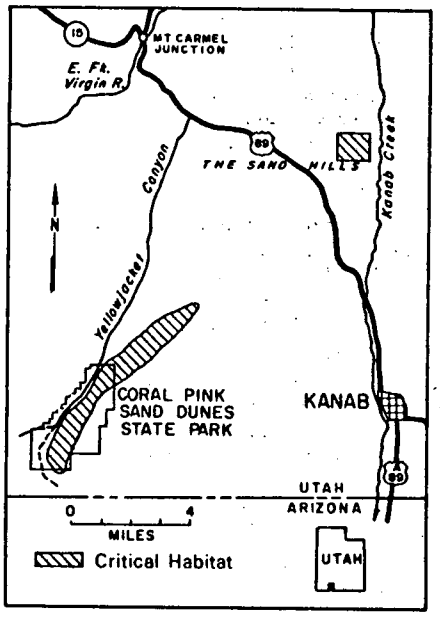
(a) * * *

* * * * *

Family *Asclepiadaceae—Asclepias welshii* (Welsh's milkweed)

Utah, Kane County: entire Coral Pink Sand Dunes, within T43S, R7W and R8W, and T44S, R8W about 10 miles west of Kanab; also, the area of the Sand Hills, about 10 miles north of Kanab, within T42S, R6W, Section 8 (S½ of the N½ and N½ of the S½). The constituent elements of this critical habitat are the sand dunes themselves.

Note.—Map follows.



* * * * *

Dated: September 21, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-24844 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 52, No. 208
Wednesday, October 28, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 4, 11, 25, 30, 31, 32, 34, 35, 40, 50, 60, 61, 70, 71, 73, 74, 75, 95, and 110

Retention Periods for Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) proposes to amend its regulations as a result of a review of its recordkeeping requirements to establish a definite retention period for each record that an NRC applicant or licensee for a materials or facility license is required to maintain. The NRC did not review the requirements for need, as need is addressed in the existing regulations. The rule would also provide a uniform standard acceptable to the NRC for the condition of a record throughout each specified retention period. This proposed rule is expected to reduce the overall recordkeeping burden for NRC applicants and licensees by use of uniform and specific retention periods for each recordkeeping requirement.

DATES: Submit comments by December 28, 1987. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for those comments received before this date.

ADDRESSES: Send comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brenda J. Shelton, Chief, Records Management Branch, Division of Information Support Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–8132.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission's (NRC) regulations require that applicants and licensees retain a variety of records for various periods of time. Licensees must also retain certain plans and procedures for routine operation and emergency situations and file reports of certain occurrences and events. The NRC has reviewed its recordkeeping requirements to determine how long the required records should be retained. This proposed rule reflects the results of this review. It amends text in portions of Title 10, Chapter I, of the Code of Federal Regulations as codified on September 30, 1986. Part 20 was excepted; its many record retention requirements are proposed in a revision to Part 20 that was published for public comment in the **Federal Register** on December 20, 1985 (50 FR 51992) and republished on January 9, 1986 (51 FR 1092). Codification of these amendments and amendments in certain published proposed rules will establish uniform retention periods for all NRC recordkeeping requirements. NRC also intends to conform record retention requirements in future rules to the four uniform periods proposed in this rule.

The regulations sometimes specify that a record be retained for a specific period of time. These periods vary widely from one or two years to the 40-year life of a reactor license to the completion of decommissioning for some licenses. In other instances, they specify that a record be kept until the Commission authorizes its disposition, and in others, that it be retained indefinitely. Some parts of NRC regulations specify the condition of a record acceptable to the NRC throughout its required retention period; others do not.

This proposed rule would amend regulations in nineteen parts of Title 10 to require that certain records in these parts be retained for specific periods. The rule would also provide for all parts of Title 10, Chapter I, the condition of a record acceptable to the NRC throughout the retention period.

Regarding specific retention periods, with the exception of one six month retention period, at 10 CFR 70.58(h), uniform retention periods of three years, five years, ten years, or the life of the component, activity, area, or facility are proposed to simplify the system for retaining NRC records. These particular four periods, although not ideal for every record retention requirement, seem to be the best choices for NRC record needs. Uniform periods were recommended to the NRC by the Nuclear Information and Records Management Association (NIRMA) based on the nuclear industry's input to NIRMA. Three of the uniform periods coincide with the retention periods for quality assurance (QA) records in Parts 50 and 71; the fourth coincides with the retention periods for records such as those covered by technical specifications.

With regard to technical specifications, the NRC recognizes that technical specifications for each nuclear power plant include record retention requirements that may, in some cases, differ from those proposed in this rule. The requirements in this rule take precedence over and supersede any conflicting requirements presently in the technical specifications. Therefore, the Office of Nuclear Reactor Regulation (NRR) intends to issue a generic letter that would provide guidance to licensees for revising their technical specifications to conform with the rule and would include model technical specifications to follow for achieving this conformance.

During the course of reviewing 10 CFR 50.36, "Technical Specifications," the staff found that this section does not clearly reflect the difference in recordkeeping and reporting requirements for reactors licensed under different sections of the regulations. Specifically, commercial and industrial facilities are licensed under § 50.21(b) or § 50.22 and have detailed notification and reporting requirements delineated in § 50.72 and § 50.73, respectively. Therefore, specific cross references to § 50.72 and § 50.73 have been added to § 50.36 where appropriate. Facilities licensed under § 50.21(a) for medical therapy uses and facilities licensed under § 50.21(c) for research and development activities do not have separate sections dealing with notification and reporting. The reporting requirements on the automatic safety system and for these types of reactors are contained within 50.36. Accordingly, language is being added to § 50.36(c)(1)(ii)(A) to make it conform with § 50.72(b)(2)(iii) and § 50.73(a)(2)(v).

An effort has been made to use consistent terminology with regard to paperwork throughout this multi-part rule. For example, the term "retain" conveys the idea of keeping secure or intact and the term "maintain" continuing to preserve and update, in this case, a record. Consistency of terminology and specificity of recordkeeping requirements and retention periods should assist an NRC applicant or a licensee in complying with these requirements.

The proposed changes in this rule result in an overall reduction in the recordkeeping burden imposed on the NRC applicant or licensee. The major reduction in burden results from proposing 139 specific retention periods, primarily three years or the life of a license, for records that now must be retained indefinitely. This major reduction, plus four other reductions of retention periods by two years, offsets the proposed increase in retention periods for 53 records; 41 cases by one year, 10 cases by two years, 1 case by two and one half years, and 1 case by three years. Based on staff's understanding of current industry practices, the increases in retention would not impose any additional burden or could be readily accommodated within current equipment configurations and, therefore, would represent no appreciable increase in burden. A paragraph describing the form and condition of a record acceptable to the NRC for review is proposed for ten parts. These paragraphs are comparable to similar provisions currently in other parts of the NRC regulations.

Specifying clearly in NRC regulations what records to retain, how long to retain them, and the condition of a record required for NRC inspection is mutually beneficial to the applicant or licensee and to the NRC. The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) added impetus to the NRC's interest in the regulatory burden imposed on an applicant or a licensee by the preparation and retention of records. Furthermore, OMB's regulations implementing the Paperwork Reduction Act require that record retention requirements imposed by Federal regulation contain specific retention periods. The NRC complies with the Act's requirement for Office of Management and Budget (OMB) review of the information collection requirements in each rulemaking. In addition, two documents on paperwork are being prepared for publication in the NUREG-series: one document will be based on Regulatory Guide 10.1, which is a compilation of reporting requirements for persons subject to NRC regulations, and the other document will summarize the record retention periods for the recordkeeping requirements contained in NRC regulations. These companion documents should be useful to an NRC applicant or a licensee.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed regulation is the type of action described in categorical exclusions 10 CFR 51.22(c) (1) and (3). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Requirements in eighteen parts included in this rule were assigned approval numbers by the Office of Management and Budget as follows:

Part 4—3150–0053; Part 11—3150–0062; Part 25—3150–0046; Part 30—3150–0017; Part 31—3150–0016; Part 32—3150–0001; Part 34—3150–0007; Part 35—3150–0010; Part 40—3150–0020; Part 50—3150–0011; Part 60—3150–0127; Part 61—3150–0135; Part 70—3150–0009; Part 71—3150–0008; Part 73—3150–0002; Part 74—3150–0123; Part 75—3150–0055; Part 95—3150–0047; Part 110—3150–0036.

This proposed rule has been submitted to the Office of Management and Budget for review and approval.

Regulatory Flexibility Certification

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), and NRC Size Standards (50 FR 50241), the Commission hereby certifies that, if promulgated, this rule will not have a significant economic impact upon a substantial number of small entities. The proposed rule would amend parts of the NRC regulations by specifying a period to retain each required record. The rule is expected to affect most facility and materials licensees by reducing the regulatory burden of retaining records for an unnecessarily long or indefinite period. Therefore, it is not expected to have a significant economic impact on any licensee. However, comments on the expected economic impact of this proposed rule on any small entity are welcome.

Application of Backfit Rule

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to the proposed rule. The proposed rule is purely administrative in nature, and therefore does not result in the "modification of or addition to systems, structures, components, or design of a facility . . . or the procedures or organization required to design, construct, or operate a facility . . .". See 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Parts 4, 11, 25, 30, 31, 32, 34, 35, 40, 50, 60, 61, 70, 71, 73, 74, 75, 95, and 110

Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Parts 4, 11, 25, 30, 31, 32, 34, 35, 40, 50, 60, 61, 70, 71, 73, 74, 75, 95, and 110.

PART 4—NONDISCRIMINATION IN FEDERALLY ASSISTED COMMISSION PROGRAMS

1. The authority citation for Part 4 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. A new § 4.6 is added to read as follows:

§ 4.6 Maintenance of records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

3. Section 4.32 is revised to read as follows:

§ 4.32 Compliance reports.

(a) Each recipient shall keep records and submit to the responsible NRC official timely, complete, and accurate compliance reports at the times and in the form and containing the information that the responsible NRC official may determine to be necessary to enable the official to ascertain whether the recipient has complied or is complying with this subpart.

(b) In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, the other recipient shall also submit necessary compliance reports to the primary recipient to enable the primary recipient to carry out its obligations under this subpart.

(c) The primary recipient shall retain each record of information needed to complete a compliance report pursuant to paragraph (a) of this section for three years or as long as the primary recipient retains the status of primary recipient as defined in § 4.3, whichever is shorter.

4. In § 4.125, the introductory text of paragraph (d) is revised to read as follows:

§ 4.125 Preemployment inquiries.

* * * * *

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected on separate forms. The recipient shall retain each form as a record for three years from the date the applicant's employment ends, or, if not hired, from the date of application. Each form must be accorded confidentiality as a medical record, except that:

* * * * *

5. In § 4.127, the introductory text of paragraph (d) is revised to read as follows:

§ 4.127 Existing facilities.

* * * * *

(d) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop a transition plan setting forth the steps necessary to complete the changes. The plan is to be developed with the assistance of interested persons, including handicapped persons, or organizations representing handicapped persons, and the plan is to meet with the approval of the NRC. The recipient shall retain a copy of the transition plan as a record until any structural change to a facility is complete. A copy of the transition plan is to be made available for public inspection. At a minimum, the plan is to:

* * * * *

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

6. The authority citation for Part 11 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 11.9 [Amended]

7. Section 11.9 is amended by changing "two years" to "three years" in the last sentence.

8. A new § 11.10 is added to read as follows:

§ 11.10 Maintenance of records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

9. In § 11.13, paragraph (b) is revised to read as follows:

§ 11.13 Special requirements for transportation.

* * * * *

(b) Each licensee who, 365 days after Commission approval of the amended security plan submitted in accordance with § 11.11(a), transports or delivers to a carrier for transport special nuclear material subject to the physical protection requirements of § 73.20, 73.25, 73.26, or 73.27 of this chapter shall confirm and record prior to shipment the name and special nuclear material access authorization number of all individuals identified in paragraph (a) of this section assigned to the shipment. The licensee shall retain this record for three years after the last shipment is made. However, the licensee need not confirm and record the special nuclear material access authorization number in the case of any individual for whom an application has been submitted and is pending before the NRC in accordance with paragraph (a) of this section.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

10. The authority citation for Part 25 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 25.11 [Amended]

11. Section § 25.11 is amended by changing "two years" to "three years" in the last sentence.

12. In 25.13, the existing text is designated paragraph (a) and a new paragraph (b) is added to read as follows:

§ 25.13 Records maintenance.

* * * * *

(b) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

§ 25.23 [Amended]

13. In § 25.23, the introductory text is amended by changing "one year" to "three years" in the fourth sentence.

§ 25.35 [Amended]

14. In § 25.35, the last sentence of the existing text is amended by changing "two years" to "three years."

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

15. The authority citation for Part 30 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

16. In § 30.34, paragraph (g) is revised to read as follows:

§ 30.34 Terms and conditions of licenses.

* * * * *

(g) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators shall test the generator eluates for molybdenum-99 breakthrough in accordance with § 35.14(b)(4) (i) through (iv) of this chapter. The licensee shall record the results of each test and retain each record for three years after the record is made.

* * * * *

17. In § 30.51, paragraph (c) is removed, paragraph (d) is redesignated (c), and paragraphs (a) and (b) are revised to read as follows:

§ 30.51 Records.

(a) Each person who receives byproduct material pursuant to a license issued pursuant to the regulations in this part and Parts 31 through 35 of this chapter shall keep records showing the receipt, transfer, and disposal of such byproduct material as follows:

(1) The licensee shall retain each record of receipt of byproduct material as long as the material is possessed and

for three years following transfer or disposal of the material.

(2) The licensee who transferred the material shall retain each record of transfer for three years after each transfer unless a specific requirement in another part of the regulations in this chapter dictates otherwise.

(3) The licensee who disposed of the material shall retain each record of disposal of byproduct material until the Commission terminates each license that authorizes disposal of the material.

(b) The licensee shall retain each record that is required by the regulations in this part and Parts 31 through 35 of this chapter or by license condition for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, the record must be retained until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

* * * * *

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

18. The authority citation for Part 31 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

19. In § 31.5, paragraph (c)(4) is revised to read as follows:

31.5 Certain measuring, gauging, or controlling devices.[2]

* * * * *

(c) * * *

(4) Shall maintain records showing compliance with the requirements of paragraphs (c)(2) and (c)(3) of this section. The records must show the results of tests. The records also must show the dates of performance of, and the names of persons performing, testing, installing, servicing, and removing from the installation radioactive material and its shielding or containment. The licensee shall retain these records as follows:

(i) Each record of a test for leakage of radioactive material required by paragraph (c)(2) of this section must be retained for three years after the next required leak test is performed or until the sealed source is transferred or disposed of.

(ii) Each record of a test of the on-off mechanism and indicator required by paragraph (c)(2) of this section must be retained for three years after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of.

(iii) Each record that is required by paragraph (c)(3) of this section must be retained for three years from the date of the recorded event or until the device is transferred or disposed of.

* * * * *

20. A new § 31.12 is added to read as follows:

§ 31.12 Maintenance of records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

21. The authority citation for Part 32 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201 88 Stat. 1242, as amended (42 U.S.C. 5841).

22. A new § 32.3 is added to read as follows:

§ 32.3 Maintenance of records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

23. The authority citation for Part 34 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

24. A new § 34.4 is added to read as follows:

§ 34.4 Maintenance of records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

§ 34.24 [Amended]

25. Section 34.24 is amended by changing "two years" to "three years" in the next to last sentence.

26. In § 34.25, paragraph (c) is revised to read as follows:

§ 34.25 Leak testing, repair, tagging, opening, modification, and replacement of sealed sources.

* * * * *

(c) The leak test must be capable of detecting the presence of 0.005 microcurie of removable contamination on the sealed source. An acceptable leak test for sealed sources in the possession of a radiography licensee would be to test at the nearest accessible point to the sealed-source storage position, or other appropriate measuring point, by a procedure to be approved pursuant to 34.11(f). Each record of leak test results must be kept in units of microcuries or disintegrations per minute (dpm) and retained for inspection by the Commission for three years after it is made.

* * * * *

§ 34.26 [Amended]

27. Section 34.26 is amended by changing "two years" to "three years" in the last sentence.

28. In § 34.27, the introductory text is revised to read as follows:

§ 34.27 Utilization logs.

Each licensee shall maintain current logs, which shall be kept available for three years from the date of the recorded event, for inspection by the Commission, at the address specified in the license, showing for each sealed source the following information:

* * * * *

29. In § 34.28, paragraph (b) is revised to read as follows:

§ 34.28 Inspection and maintenance of radiographic exposure devices, storage containers, and source changers.

* * * * *

(b) The licensee shall conduct a program for inspection and maintenance of radiographic exposure devices, storage containers, and source changers at intervals not to exceed three months or prior to the first use thereafter to ensure proper functioning of components important to safety. The

[2] Persons possessing byproduct material in devices under the general license in § 31.5 before January 15, 1975, may continue to possess, use, or transfer that material in accordance with the requirements of § 31.5 in effect on January 14, 1975.

licensee shall retain records of these inspections and maintenance for three years.

30. In § 34.29, paragraph (c) is revised to read as follows:

§ 34.29 Permanent radiographic installations.

* * * * *

(c) The alarm system shall be tested at intervals not to exceed three months or prior to the first use thereafter of the source in the installation. The licensee shall retain records of these tests for three years.

31. In § 34.32, the introductory text is revised to read as follows:

§ 34.32 Operating and emergency procedures.

The licensee shall retain a copy of current operating and emergency procedures as a record until the Commission terminates the license that authorizes the activity for which the procedures were developed and, if superseded, retain the superseded material for three years after each change. These procedures shall include instructions in at least the following:

* * * * *

32. In § 34.33, paragraphs (b) and (e) are revised to read as follows:

§ 34.33 Personnel monitoring.

* * * * *

(b) Pocket dosimeters must be read and exposures recorded daily. The licensee shall retain each record of these exposures for three years after the record is made.

* * * * *

(e) Reports received from the film badge or TLD processor must be retained for inspection until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

* * * * *

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

33. The authority citation for Part 35 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

34. A new § 35.5 is added to read as follows:

§ 35.5 Maintenance of records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

§ 35.27 [Amended]

35. Section 35.27, paragraph (c) is amended by changing "two years" to "three years."

§ 35.29 [Amended]

36. Section 35.29, paragraph (b) is amended by changing "two years" to "three years."

§ 35.33 [Amended]

37. Section 35.33, paragraph (c) is amended to insert the number for the footnoted NRC form in the second sentence to read "Form NRC 473."

§ 35.50 [Amended]

38. Section 35.50, paragraph (e) is amended by changing "two years" to "three years."

§ 35.51 [Amended]

39. Section 35.51, paragraph (d) introductory text is amended by changing "two years" to "three years."

§ 35.53 [Amended]

40. Section 35.53, paragraph (c) introductory text is amended by changing "two years" to "three years."

§ 35.59 [Amended]

41. Section 35.59, paragraph (i) is amended by changing "two years" to "three years."

§ 35.70 [Amended]

42. Section 35.70, paragraph (h) is amended by changing "two years" to "three years."

§ 35.80 [Amended]

43. Section 35.80, paragraph (f) is amended by changing "two years" to "three years."

§ 35.92 [Amended]

44. Section 35.92, paragraph (b) is amended by changing "two years" to "three years."

§ 35.204 [Amended]

45. Section 35.204, paragraph (c) is amended by changing "two years" to "three years."

§ 35.310 [Amended]

46. Section 35.310, paragraph (b) is amended by changing "two years" to "three years."

§ 35.315 [Amended]

47. Section 35.315, paragraph (a)(4) is amended by changing "two years" to "three years."

§ 35.404 [Amended]

48. Section 35.404, paragraph (b) is amended by changing "two years" to "three years."

§ 35.406 [Amended]

49. Section 35.406, paragraph (d) is amended by changing "two years" to "three years."

§ 35.410 [Amended]

50. Section 35.410, paragraph (b) is amended by changing "two years" to "three years."

§ 35.415 [Amended]

51. Section 35.415, paragraph (a)(4) is amended by changing "two years" to "three years."

§ 35.610 [Amended]

52. Section 35.610, paragraph (c) is amended by changing "two years" to "three years."

§ 35.615 [Amended]

53. Section 35.615, paragraph (d)(4) is amended by changing "two years" to "three years."

§ 35.634 [Amended]

54. Section 35.634, paragraph (c) is amended by changing "two years" to "three years."

55. Section 35.634, paragraph (f) is amended by changing "two years" to "three years."

§ 35.636 [Amended]

56. Section 35.636, paragraph (c) is amended by changing "two years" to "three years."

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

57. The authority citation for Part 40 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

58. In § 40.26, paragraph (c)(2) is revised to read as follows:

§ 40.26 General license for possession and storage of byproduct material as defined in this part.

* * * * *

(c) * * *

(2) The documentation of daily inspections of tailings or waste retention systems and the immediate notification of the appropriate NRC regional office as indicated in Appendix D to 10 CFR Part 20 of this chapter, or the Director,

Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of any failure in a tailings or waste retention system that results in a release of tailings or waste into unrestricted areas, or of any unusual conditions (conditions not contemplated in the design of the retention system) that if not corrected could lead to failure of the system and result in a release of tailings or waste into unrestricted areas; and any additional requirements the Commission may by order deem necessary. The licensee shall retain this documentation of each daily inspection as a record for three years after each inspection is documented.

* * * * *

59. In 40.35, paragraph (e)(3) is revised to read as follows:

§ 40.35 Conditions of specific licenses issued pursuant to § 40.34.

* * * * *

(e) * * *

(3) Keep records showing the name, address, and a point of contact for each general licensee to whom he transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in 40.25 or equivalent regulations of an Agreement State. The records shall be retained for three years from the date of transfer and shall show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the report requirements of this section.

60. In § 40.61, paragraph (c) is removed, paragraph (d) is redesignated (c), and paragraphs (a) and (b) are revised to read as follows:

Records, Reports, and Inspections

§ 40.61 Records.

(a) Each person who receives source or byproduct material pursuant to a license issued pursuant to the regulations in this part shall keep records showing the receipt, transfer, and disposal of this source or byproduct material as follows:

(1) The licensee shall retain each record of receipt of source or byproduct material as long as the material is possessed and for three years following transfer or disposition of the source or byproduct material.

(2) The licensee who transferred the material shall retain each record of transfer or source or byproduct material until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(3) The licensee shall retain each record of disposal of source or byproduct material until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(4) If source or byproduct material is combined or mixed with other licensed material and subsequently treated in a manner that makes direct correlation of a receipt record with a transfer, export, or disposition record impossible, the licensee may use evaluative techniques (such as first-in-first-out), to make the records that are required by this Part account for 100 percent of the material received.

(b) The licensee shall retain each record that is required by the regulations in this part or by license condition for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, each record must be maintained until the Commission terminates the license that authorizes the activity that is subject to the recordkeeping requirement.

* * * * *

61. In Appendix A to Part 40, I. Technical Criteria, the second paragraph of Criterion 8 and Criterion 8A are revised to read as follows:

Appendix A to Part 40

* * * * *

I. Technical Criteria

* * * * *

Criterion 8 * * *

Checks must be made and logged hourly of all parameters (e.g., differential pressures and scrubber water flow rates) that determine the efficiency of yellowcake stack emission control equipment operation. The licensee shall retain each log as a record for three years after the last entry in the log is made. It must be determined whether or not conditions are within a range prescribed to ensure that the equipment is operating consistently near peak efficiency; corrective action must be taken when performance is outside of prescribed ranges. Effluent control devices must be operative at all times during drying and packaging operations and whenever air is exhausting from the yellowcake stack. Drying and packaging operations must terminate when controls are inoperative. When checks indicate the equipment is not operating within the range prescribed for peak efficiency, actions must be taken to restore parameters to the prescribed range. When this cannot be done without shutdown and repairs, drying and packaging operations must cease as soon as practicable. Operations may not be restarted after cessation due to off-normal performance until needed corrective actions have been identified and implemented. All these cessations, corrective actions, and restarts must be reported to the appropriate NRC regional office as indicated in Criterion 8A, in writing, within ten days of the subsequent restart.

* * * * *

Criterion 8A—Daily inspections of tailings or waste retention systems must be conducted by a qualified engineer or scientist and documented. The licensee shall retain the documentation for each daily inspection as a record for three years after the documentation is made. The appropriate NRC regional office as indicated in Appendix D to 10 CFR Part 20 of this chapter, or the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, must be immediately notified of any failure in a tailings or waste retention system that results in a release of tailings or waste into unrestricted areas, or of any unusual conditions (conditions not contemplated in the design of the retention system) that if not corrected could indicate the potential or lead to failure of the system and result in a release of tailings or waste into unrestricted areas.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

62. The authority citation for Part 50 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42.U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

63. In § 50.36, paragraphs (c)(1)(i) (A) and (B) and (ii) (A) and (B) and (c) (2) and (7) are revised to read as follows:

§ 50.36 Technical specifications.

* * * * *

(c) Technical specifications will include items in the following categories:

(1) Safety limits, limiting safety system settings, and limiting control settings. (i)(A) Safety limits for nuclear reactors are limits upon important process variables that are found to be necessary to reasonably protect the integrity of certain of the physical barriers that guard against the uncontrolled release of radioactivity. If any safety limit is exceeded, the reactor must be shut down. The licensee shall notify the Commission, review the matter, and record the results of the review, including the cause of the condition and the basis for corrective action taken to preclude recurrence. Operation must not be resumed until authorized by the Commission. The licensee shall retain the record of the results of each review until the Commission terminates the license for the reactor, except for nuclear power reactors licensed under § 50.21(b) or § 50.22 of this part. For these reactors,

the licensee shall notify the Commission as required by § 50.72 and submit a Licensee Event Report to the Commission as required by § 50.73.

(B) Safety limits for fuel reprocessing plants are those bounds within which the process variables must be maintained for adequate control of the operation and that must not be exceeded in order to protect the integrity of the physical system that is designed to guard against the uncontrolled release of radio-activity. If any safety limit for a fuel reprocessing plant is exceeded, corrective action must be taken as stated in the technical specification or the affected part of the process, or the entire process if required, must be shut down, unless this action would further reduce the margin of safety. The licensee shall notify the Commission, review the matter, and record the results of the review, including the cause of the condition and the basis for corrective action taken to preclude recurrence. If a portion of the process or the entire process has been shutdown, operation must not be resumed until authorized by the Commission. The licensee shall retain the record of the results of each review until the Commission terminates the license for the plant.

(ii)(A) Limiting safety system settings for nuclear reactors are settings for automatic protective devices related to those variables having significant safety functions. Where a limiting safety system setting is specified for a variable on which a safety limit has been placed, the setting must be so chosen that automatic protective action will correct the abnormal situation before a safety limit is exceeded. If, during operation, it is determined that the automatic safety system does not function as required, the licensee shall take appropriate action, which may include shutting down the reactor. The licensee shall notify the Commission, review the matter, and record the results of the review, including the cause of the condition and the basis for corrective action taken to preclude recurrence. The licensee shall retain the record of the results of each review until the Commission terminates the license for the reactor except for nuclear power reactors licensed under § 50.21(b) or § 50.22 of this part. For these reactors, the licensee shall notify the Commission as required by § 50.72 and submit a Licensee Event Report to the Commission as required by § 50.73. Licensees in these cases shall retain the records of the review for a period of three years following issuance of a Licensee Event Report.

(B) Limiting control settings for fuel reprocessing plants are settings for automatic alarm or protective devices related to those variables having significant safety functions. Where a limiting control setting is specified for a variable on which a safety limit has been placed, the setting must be so chosen that protective action, either automatic or manual, will correct the abnormal situation before a safety limit is exceeded. If, during operation, the automatic alarm or protective devices do not function as required, the licensee shall take appropriate action to maintain the variables within the limiting control-setting values and to repair promptly the automatic devices or to shut down the affected part of the process and, if required, to shut down the entire process for repair of automatic devices. The licensee shall notify the Commission, review the matter, and record the results of the review, including the cause of the condition and the basis for corrective action taken to preclude recurrence. The licensee shall retain the record of the results of each review until the Commission terminates the license for the plant.

(2) *Limiting conditions for operation.* Limiting conditions for operation are the lowest functional capability or performance levels of equipment required for safe operation of the facility. When a limiting condition for operation of a nuclear reactor is not met, the licensee shall shut down the reactor or follow any remedial action permitted by the technical specifications until the condition can be met. When a limiting condition for operation of any process step in the system of a fuel reprocessing plant is not met, the licensee shall shut down that part of the operation or follow any remedial action permitted by the technical specifications until the condition can be met. In the case of a nuclear reactor not licensed under § 50.21(b) or § 50.22 of this part or fuel reprocessing plant, the licensee shall notify the Commission, review the matter, and record the results of the review, including the cause of the condition and the basis for corrective action taken to preclude recurrence. The licensee shall retain the record of the results of each review until the Commission terminates the license for the nuclear reactor or the fuel reprocessing plant. In the case of nuclear power reactors licensed under § 50.21(b) or § 50.22, the licensee shall notify the Commission if required by § 50.72 and shall submit a Licensee Event Report to the Commission as required by § 50.73. In this case, licensees shall retain records associated with preparation of a Licensee Event Report for a period of three years following issuance of the report. For events which do not require a Licensee Event Report, the licensee shall retain each record as required by the technical specifications.

* * * * *

(7) *Written Reports.* Licensees for nuclear power reactors licensed under § 50.21(b) and § 50.22 of this part shall submit written reports to the Commission in accordance with § 50.73 of this part for events described in paragraphs (c)(1) and (c)(2) of this section. For all licensees, the Commission may require Special Reports as appropriate.

* * * * *

64. In § 50.36a, paragraph (a)(1) is revised to read as follows:

§ 50.36a Technical specifications on effluents from nuclear power reactors.

(a) * * *

(1) That operating procedures developed pursuant to § 50.34a(c) for the control of effluents be established and followed and that equipment installed in the radioactive waste system, pursuant to § 50.34(a), be maintained and used. The licensee shall retain the operating procedures in effect as a record until the Commission terminates the reactor license and shall retain each superseded revision of the procedures for three years from the date it was superseded.

* * * * *

65. In § 50.48, paragraph (a) is revised to read as follows:

§ 50.48 Fire protection.

(a) Each operating nuclear power plant must have a fire protection plan that satisfies Criterion 3 of Appendix A to this part. This fire protection plan must describe the overall fire protection program for the facility, identify the various positions within the licensee's organization that are responsible for the program, state the authorities that are delegated to each of these positions to implement those responsibilities, and outline the plans for fire protection, fire detection and suppression capability, and limitation of fire damage. The plan must also describe specific features necessary to implement the program described above, such as administrative controls and personnel requirements for fire prevention and manual fire suppression activities, automatic and manually operated fire detection and suppression systems, and the means to limit fire damage to structures, systems, or components important to safety so that the capability to safely shut down

the plant is ensured.[3] The licensee shall retain the fire protection plan and each change to the plan as a record until the Commission terminates the reactor license and shall retain each superseded revision of the procedures for three years from the date it was superseded.

* * * * *

66. In § 50.49, the introductory text of paragraph (d) is revised to read as follows:

§ 50.49 Environmental qualification of electric equipment important to safety for nuclear power plants.

* * * * *

(d) The applicant or licensee shall prepare a list of electric equipment important to safety covered by this section. In addition, the applicant or licensee shall include the information in paragraphs (d) (1), (2), and (3) of this section for this electric equipment important to safety in a qualification file. The applicant or licensee shall keep the list and information in the file current and retain the file in auditable form for the entire period during which the covered item is installed in the nuclear power plant or is stored for future use to permit verification that each item of electric equipment important to safety meets the requirements of paragraph (j) of this section.

* * * * *

67. In § 50.54, paragraph (q) is revised to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(q) A licensee authorized to possess and operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in § 50.47(b) and the requirements in Appendix E to this part. A licensee authorized to possess and/or operate a research reactor or a fuel facility shall follow and maintain in effect emergency plans which meet the requirements in Appendix E to this part. The licensee shall retain the emergency plan and each change that decreases the effectiveness of the plan as a record until the Commission terminates the license for the nuclear power reactor. The nuclear power reactor licensee may make changes to these plans without Commission approval only if the changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the standards of § 50.47(b) and the requirements of Appendix E to this part. The research reactor and/or the fuel facility licensee may make changes to these plans without Commission approval only if these changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E to this part. The nuclear power reactor, research reactor, or fuel facility licensee shall retain a record of each change to the emergency plan made without prior Commission approval for a period of three years from the date of the change. Proposed changes that decrease the effectiveness of the approved emergency plans must not be implemented without application to and approval by the Commission. The licensee shall submit, as specified in § 50.4, a report of each proposed change for approval. If a change is made without approval, the licensee shall submit, as specified in § 50.4, a report of each change within 30 days after the change is made.

* * * * *

68. In § 50.71, paragraph (c) is revised to read as follows:

§ 50.71 Maintenance of records, making of reports.

* * * * *

(c) Records that are required by the regulations in this part, by license condition, or by technical specification, must be retained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license.

* * * * *

69. In Appendix R to Part 50, Section III, Specific Requirements, paragraph I.3.d is revised to read as follows:

Appendix R—Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979

* * * * *

III. * * *

I. * * *

3. * * *

d. At 3-year intervals, a randomly selected unannounced drill must be critiqued by qualified individuals independent of the licensee's staff. A copy of the written report from these individuals must be available for NRC review and shall be retained as a record as specified in § III. I.4 of this appendix.

* * * * *

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

70. The authority citation for Part 60 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201) Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

71. Section 60.4 is revised to read as follows:

§ 60.4 Communications and records.

(a) Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be addressed to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Communications, reports, and applications may be delivered in person at the Commission's offices at 1717 H Street NW., Washington DC, or 7915 Eastern Avenue, Silver Spring, Maryland.

(b) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

72. In § 60.71, the section heading and paragraph (b) are revised to read as follows:

§ 60.71 Records and reports.

* * * * *

(b) Records of the receipt, handling, and disposition of radioactive waste at a geologic repository operations area shall contain sufficient information to provide a complete history of the movement of the waste from the shipper through all phases of storage and disposal. DOE shall retain these records in a manner that ensures their useability for future generations in accordance with § 60.51(a)(2).

* * * * *

73. In § 60.72, paragraph (a) is revised to read as follows:

§ 60.7 Construction records.

(a) DOE shall maintain records of construction of the geologic repository operations area in a manner that ensures their useability for future generations in accordance with § 60.51(a)(2).

* * * * *

---

[3] Basic fire protection guidance for nuclear power plants is contained in two NRC documents:

Branch Technical Position Auxiliary Power Conversion System Branch BTP APCSB 9.5–1, "Guidelines for Fire Protection for Nuclear Power Plants," for new plants docketed after July 1, 1976, dated May 1976.

Appendix A to BTP APCSB 9.5–1, "Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976," for plants that were operating or under various stages of design or construction before July 1, 1976, dated August 23, 1976.

Also see Note 4.

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

74. The authority citation for Part 61 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

75. In § 61.80 of Subpart G, paragraphs (e) and (f) are revised to read as follows:

Subpart G—Records, Reports, Tests, and Inspections

§ 61.80 Maintenance of records, reports, and transfers.

* * * * *

(e) Notwithstanding paragraphs (a) through (d) of this section, the licensee shall record the location and the quantity of radioactive wastes contained in the disposal site and transfer these records upon license termination to the chief executive of the nearest municipality, the chief executive of the county in which the facility is located, the county zoning board or land development and planning agency, the State governor and other State, local, and Federal governmental agencies as designated by the Commission at the time of license termination.

(f) Following receipt and acceptance of a shipment of radioactive waste, the licensee shall record the date of disposal of the waste, the location in the disposal site, the condition of the waste packages as received, any discrepancies between materials listed on the manifest and those received, and any evidence of leaking or damaged packages or radiation or contamination levels in excess of limits specified in Department of Transportation and Commission regulations. The licensee shall briefly describe any repackaging operations of any of the waste packages included in the shipment, plus any other information required by the Commission as a license condition. The licensee shall retain these records until the Commission terminates the license that authorizes the activities described in this section or until the licensee transfers these records as required by paragraph (e) of this section.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

76. The authority citation for Part 70 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

77. In 70.22, paragraphs (g), (h), (i), (j), and (k) are revised to read as follows:

§ 70.22 Contents of applications.

* * * * *

(g)(1) Each application for a license that would authorize the transport or delivery to a carrier for transport of special nuclear material in an amount specified in § 73.1(b)(2) of this chapter must include (i) a description of the plan for physical protection of special nuclear material in transit in accordance with §§ 73.20, 73.25, 73.26, 73.27, and 73.67 (a), (e), and (g) for 10 kg or more of special nuclear material of low strategic significance, and § 73.70(g) of this chapter including, as appropriate, a plan for the selection, qualification, and training of armed escorts, or the specification and design of a specially designed truck or trailer, and (ii) a licensee safeguards contingency plan or response procedures, as appropriate, for dealing with threats, thefts, and industrial sabotage relating to the special nuclear material in transit.

(2) Each application for such a license involving formula quantities of strategic special nuclear material must include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to Part 73 of this chapter, are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.)

(3) The licensee shall retain this description of the plan for physical protection of special nuclear material in transit and the safeguards contingency plan or safeguards response procedures and each change to the plan or procedures as a record for a period of three years following the date on which the licensee last possessed the appropriate type and quantity of special nuclear material requiring this record under each license.

(h)(1) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), uranium-233, or plutonium alone or in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium), other than a license for possession or use of this material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, must include a physical security plan, consisting of two parts. Part I must address vital equipment, vital areas, and isolation zones, and must demonstrate how the applicant plans to meet the requirements of § 73.20, 73.40, 73.45, 73.46, 73.50, 73.60, 73.70, and 73.71 of this chapter in the conduct of the activity to be licensed, including the identification and description of jobs as required by 11.11(a) of this chapter. Part II must list tests, inspections, and other means to demonstrate compliance with such requirements.

(2) The licensee shall retain a copy of this physical security plan and each change to the plan as a record for a period of three years following the date on which the licensee last possessed the appropriate type and quantity of special nuclear material requiring this record under each license.

(i) Each application for a license to possess and use special nuclear material for processing and fuel fabrication, scrap recovery, or conversion of uranium hexafluoride must contain, in addition to the other information required by this section, plans for coping with emergencies.[3] The licensee shall retain a copy of these plans for coping with emergencies as records until the Commission terminates each license obtained by this application or any application for renewal of a license, and each change to the plan for three years after the date of the change.

(j)(1) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), uranium-233, or plutonium alone or in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium) other than a license for possession or use of this material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, must include a licensee safeguards contingency plan for dealing with threats, thefts, and industrial sabotage, as defined in Part 73 of this chapter, relating to nuclear facilities licensed under Part 50 of this chapter or to the possession of special nuclear material licensed under this part.

(2) Each application for such a license must include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to Part 73 of this chapter, are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth

[3] Emergency plans shall contain the elements that are listed in Section IV, "Content of Emergency Plans," of Appendix E to Part 50 of this chapter.

category of information, Procedures, does not have to be submitted for approval.

(3) The licensee shall retain a copy of this safeguards contingency plan as a record until the Commission terminates each license obtained by this application or any application for renewal of a license and retain each change to the plan as a record for three years after the date of the change.

(k) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee special nuclear material of moderate strategic significance or 10 kg or more of special nuclear material of low strategic significance as defined under § 73.2 (x) and (y) of this chapter, other than a license for possession or use of this material in the operation of a nuclear power reactor licensed pursuant to Part 50 of this chapter, must include a physical security plan that demonstrates how the applicant plans to meet the requirements of § 73.67 (d), (e), (f), and (g), as appropriate, of this chapter. The licensee shall retain a copy of this physical security plan as a record for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license and each change to the plan for three years after the change.

* * * * *

78. In § 70.24, paragraph (a)(3) is revised to read as follows:

§ 70.24 Criticality accident requirements.

(a) * * *

(3) The licensee shall maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm. These procedures must include the conduct of drills to familiarize personnel with the evacuation plan, plans and designation of responsible individuals for determining the cause of the alarm, and placement of radiation survey instruments in accessible locations for use in such an emergency. The licensee shall retain a copy of current procedures for each area as a record for as long as licensed special nuclear material is handled, used, or stored in the area. The licensee shall retain any superseded portion of the procedures for three years after the portion is superseded.

* * * * *

79. In 70.32, paragraphs (c)(2), (d), (e), and (g) are revised to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(c) * * *

(2) The licensee shall maintain records of changes to the material control and accounting program made without prior Commission approval, for three years, after they are superseded and shall furnish to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the appropriate NRC Regional Office shown in Appendix A to Part 73 of this chapter, a report containing a description of each change within:

* * * * *

(d) The licensee shall make no change which would decrease the effectiveness of the plan for physical protection of special nuclear material in transit prepared pursuant to § 70.22(g) or § 73.20(c) of this chapter without the prior approval of the Commission. A licensee desiring to make such changes shall submit an application for a change in the technical specifications incorporated in his or her license, if any, or for an amendment to the license pursuant to § 50.90 or § 70.34 of this chapter, as appropriate. The licensee may make changes to the plan for physical protection or special nuclear material without prior Commission approval if these changes do not decrease the effectiveness of the plan. The licensee shall retain a copy of the plan a record for the period during which the licensee possesses a formula quantity of special nuclear material requiring this record under each license and each change to the plan for three years from the effective date of the change. A report containing a description of each change shall be furnished the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the appropriate NRC Regional Office shown in Appendix A to Part 73 of this chapter within two months after the change.

(e) The licensee shall make no change which would decrease the effectiveness of a security plan prepared pursuant to §§ 70.22(h), 70.22(k), or 73.20(c) without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to its license pursuant to § 70.34. The licensee shall maintain records of changes to the plan made without prior Commission approval, for three years from the effective date of the change, and shall furnish to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the appropriate NRC Regional Office shown in Appendix A to Part 73 of this chapter, a report containing a description of each change within two months after the change is made.

* * * * *

(g) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with Appendix C to Part 73 of this chapter for effecting the actions and decisions contained in the Responsibility Matrix of its safeguards contingency plan. The licensee shall retain a copy of the safeguards contingency plan procedures as a record for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license for which the procedures were developed and each change to the plan for three years from the effective date of the change. The licensee shall make no change that would decrease the safeguards effectiveness of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix) contained in any licensee safeguards contingency plan prepared pursuant to §§ 70.22(g), 70.22(j), 73.30(g), or 73.40 of this chapter without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to its license pursuant to § 70.34. The licensee may make changes to the licensee safeguards contingency plan without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain each change to the plan made without prior approval as a record during the period for which possession of a formula quantity of special nuclear material is authorized under a license and retain the superseded material for three years from the effective date of the change and shall furnish a report containing a description of each change within 60 days after the change is made to the Regional Administrator of the appropriate NRC Regional Office specified in Appendix A to Part 73 of this chapter, with a copy to the Director of Nuclear Material Safety and Safeguards.

* * * * *

80. In § 70.42, paragraphs (d) (1), (2), (3), (4), and (5) are revised to read as follows:

§ 70.42 Transfer of special nuclear material.

* * * * *

(d) * * *

(1) The transferor may have in his or her possession, and read, a current copy of the transferee's specific license or registration certificate. The transferor shall retain a copy of each license or certificate for three years from the date that it was obtained.

(2) The transferor may have in its possession a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of special nuclear material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date. The transferor shall retain the written certification as a record for three years from the date of receipt of the certification;

(3) For emergency shipments the transferor may accept oral certification by the transferee that he or she is authorized by license or registration certificate to receive the type, form, and quantity of special nuclear material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date, provided that the oral certification is confirmed in writing within ten days. The transferor shall retain the written confirmation of the oral certification for three years from the date of receipt of the confirmation;

(4) The transferor may obtain other sources of information compiled by a reporting service from official records of the Commission or the licensing agency of an Agreement State as to the identity of licensees and the scope and expiration dates of licenses and registrations. The transferor shall retain the compilation of information as a record for three years from the date that it was obtained; or

(5) When none of the methods of verification described in paragraphs (d)(1) to (4) of this section are readily available or when a transferor desires to verify that information received by one of these methods is correct or up-to-date, the transferor may obtain and record confirmation from the Commission or the licensing agency of an Agreement State that the transferee is licensed to receive the special nuclear material. The transferor shall retain the record of confirmation for three years from the date the record is made.

81. In § 70.51, paragraphs (b) (2), (3), (5), and (6), (c), the introductory text of (e)(1), and (f)(2)(v) are revised to read as follows:

§ 70.51 Material balance, inventory, and records requirements.

* * * * *

(b) * * *

(2) Each record that is required by the regulations in this part or by license condition must be maintained and retained for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, the licensee shall retain the record until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(3) Each record of receipt, acquisition, or physical inventory of special nuclear material that must be maintained pursuant to paragraph (b)(1) of this section must be retained as long as the licensee retains possession of the material and for three years following transfer of such material.

* * * * *

(5) Each record of transfer of special nuclear material to other persons must be retained by the licensee who transferred the material until the Commission terminates the license authorizing the licensee's possession of the material. Each record required by paragraph (e)(1)(v) of this section shall be retained for three years after it is made.

(6) Each record of disposal of special nuclear material must be retained until the Commission terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

(c) Each licensee who is authorized to possess at any one time special nuclear material in a quantity exceeding one effective kilogram of special nuclear material shall establish, maintain, and follow written material control and accounting procedures that are sufficient to enable the licensee to account for the special nuclear material in the licensee's possession under license. The licensee shall retain these procedures until the Commission terminates the license that authorizes possession of the material and retain any superseded portion of the procedures for three years after the portion is superseded.

* * * * *

(e) * * *

(1) Maintain procedures that include items listed in paragraphs (e)(1)(i), (ii), (iii), (iv), (v), (vi), and (vii) of this section and retain each record required in these paragraphs for three years after the record is made.

* * * * *

(f) * * *

(2) * * *

(v) Documentation in compliance with the requirements of paragraphs (f)(2)(i), (ii), (iii), and (iv) of this section. Each record documenting compliance with these requirements must be retained for three years after it is made.

* * * * *

82. In § 70.57, the introductory text of paragraph (b) and paragraphs (b) (2), (3), (4), (6), (7), (8), (11), and (12) are revised to read as follows:

§ 70.57 Measurement control program for special nuclear materials control and accounting.

* * * * *

(b) In accordance with § 70.58(f), each licensee who is authorized to possess at any one time and location strategic special nuclear material, or special nuclear material of moderate strategic significance, in a quantity exceeding one effective kilogram and to use such special nuclear material for activities other than those involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, those involved in a waste disposal operation, or as sealed sources, shall establish and maintain a measurement control program for special nuclear materials control and accounting measurements. Each program function must be identified and assigned in the licensee organization in accordance with § 70.58(b)(2), and functional organizational relationships must be set forth in writing in accordance with § 70.58(b)(3). The program must be described in a manual which contains the procedures, instructions, and forms prepared to meet the requirements of this paragraph, including procedures for the preparation, review, approval, and prompt dissemination of any program modifications or changes. The licensee shall retain the current program as a record until the Commission terminates the license authorizing possession of the nuclear materials. The licensee's program shall include the following:

* * * * *

(2) Provisions must be made for management reviews to determine the adequacy of the program and to assess the applicability of current procedures and for planned audits to verify conformance with all aspects of the program. These reviews and audits must be performed at intervals not to exceed 12 months. Audits and reviews must be performed by trained individuals independent of direct responsibility for the receipt, custody, utilization, measurement, measurement quality, and shipment of special nuclear material. The results of reviews and audits must be recorded and reported to licensee management. The licensee shall retain each record of a review or an audit for three years after the record is made.

(3) The licensee shall ensure that any person who contracts to perform materials control and accounting measurement services conforms with applicable requirements of paragraphs (b) (4) through (8) and (10) through (12) of this section. Conformance must include reporting by the contractor of sufficient error data to allow the licensee to calculate bias corrections and measurement limits of error. All statistical studies must be reported or references in the measurement report submitted to the licensee, who shall have access to the contractor's supporting control data. The licensee shall perform reviews to determine the adequacy of the contractor's program and audits to verify conformance with all aspects of the program. Reviews and audits must be performed at intervals not to exceed 12 months. The results of reviews and audits must be documented and reported to licensee management. The licensee shall retain the record of the results of the licensee review and audit of the contractor's program for three years after the record is made.

(4) In order to ensure that potential sources of sampling error are identified and that samples are representative, process and engineering tests must be performed using well characterized materials to establish or to verify the applicability of existing procedures for sampling special nuclear materials and for maintaining sample integrity during transport and storage. The Licensee shall record the results of the above process and engineering tests and shall maintain those results as a record for as long as that sampling systems is in use and for three years following the last such use. The program must ensure that such procedures are maintained and followed, and that sampling is included in the procedures for estimating biases, limits for systematic errors, and random error variances.

* * * * *

(6) To ensure the adequacy of each measurement system with respect to process flows, sampling and measurement points, and nominal material compositions, engineering analyses and evaluations must be made of the design, installation, preoperational tests, calibration, and the operation of each system. These analyses and evaluations must be repeated whenever a significant change is made in any component of a system. The licensee shall record the results of these analyses and evaluations and retain these records for three years after the life of the process or equipment.

(7) Procedures and performance criteria must be established for the training, qualifying, and periodic requalifying of all personnel who perform sampling and measurements for materials control and accounting purposes. The licensee shall retain as a record the results of personnel qualification or requalification for three years after the record is made.

(8) The program must generate current data on the performance of measuring processes, including, as appropriate, values for bias corrections and their uncertainties, random error variances, limits for systematic errors, and other parameters needed to establish the uncertainty of measurements pertaining to materials control and accounting. The program data must reflect the current process and measurement conditions existing at the time the control measurements are made. The licensee shall record this data and retain this record for three years after the record is made. Measurements which are not controlled by the program may not be used for materials control or for accounting proposes. The program shall include:

* * * * *

(11)(i) The licensee shall establish and maintain a statistical control system, including control charts and formal statistical procedures, designed to monitor the quality of each type of program measurement. The licensee shall retain a copy of the current statistical control system as a record until the Commission terminates each license that authorizes possession of the material that the system affects and shall retain copies of such system documents for previous inventory periods as a record for three years after they are replaced.

(ii) Control chart limits must be established to be equivalent to levels of significance of 0.05 and 0.001. Whenever control data exceed the 0.05 control limits, the licensee shall investigate the condition and take corrective action in a timely manner. The licensee shall record the results of these investigations and actions and retain each record for three years after the record is made. Whenever the control data exceed the 0.001 control limits, the measurement system that generated the data must not be used for material control and accounting purposes until the deficiency has been corrected and the system has been brought into control at the 0.05 control level.

(12) The licensee shall provide a records system in which all data, information, reports, and documents generated by the measurement control program must be retained for three years. Records must include a summary of the error data utilized in the limit of error calulations performed for each material balance period. The records system must be organized for efficient retrieval of program information. Each reported result must be readily relatable to the original measurement data and to all relevant measurement control information, including pertinent calibration data. Records must be available for NRC inspection.

* * * * *

83. In § 70.58, paragraphs (b)(3), (e), (f), (h), and (j) and the introductory text of paragraphs (i) and (k) are revised to read as follows:

§ 70.58 Fundamental nuclear material controls.

* * * * *

(b) * * *

(3) Material control and accounting functional and organizational relationships must be set forth in writing in job descriptions, organizational directives, instructions, procedure manuals, etc. This documentation must include position qualification requirements and definitions of authorities, responsibilities, and duties. Delegations of material control and accounting responsibilities and authority must be in writing. The licensee shall retain this documentation as a record until the Commission terminates each license that authorizes the activity that is subject to retention of the documentation, and if any portion of the documentation is superseded, retain the superseded material for three years after each change.

* * * * *

(e) A system must be established, maintained, and followed for the measurement of all special nuclear material received, produced, or transferred between MBAs, transferred from MBAs to ICAs, on inventory, or shipped, discarded, or otherwise removed from inventory and for the determination of the limit of error associated with each such measured quantity except for plutonium-beryllium sources; samples that have been determined by other means to contain less than 10 grams U-235, U-233, or plutonium each; and reactor-irradiated fuels involved in research, development, and evaluation programs in facilities other than irradiated-fuel reprocessing plants. The system must be described in writing and provide for sufficient measurements to substantiate the quantities of element and isotope measured and the associated limits of error. The licensee shall record the required measurements and associated limits of error and shall retain any

record associated with this system for three years after the record is made.

(f) A program must be established, maintained, and followed pursuant to § 70.57(b), for the continuing determination and control of the systematic and random errors of measurement processes at a level commensurate with the requirements of § 70.51(e)(5). The licensee shall retain each completed record required by the program for three years after the record is made.

* * * * *

(h) A system of storage and internal handling controls must be established, maintained, and followed to provide current knowledge of the identity, quantity, and location of all special nuclear material contained within a plant in discrete items and containers. The licensee shall include procedures as specified in § 70.51(e)(1) and retain any record associated with the procedures for six months after the record is made;

(i) Procedures for special nuclear material scrap control must be established, maintained, and followed to limit the accumulation and the uncertainty of measurement of these materials on inventory. The licensee shall retain a copy of the current procedures as a record until the Commission terminates each license that authorizes the activity that is subject to the retention of procedures and, if any portion of the procedures is superseded, retain the superseded portion for three years after each change. Such procedures must include:

* * * * *

(j) Physical inventory procedures must be established, maintained, and followed so that special nuclear material balance and their measurement uncertainties can be determined on the basis of measurements in compliance with the material balance and inventory requirements and criteria specified in § 70.51. The licensee shall retain a copy of the current procedures as a record until the Commission terminates each license that authorizes the activity that is subject to the retention of procedures and, if any portion of the procedures is superseded, retain the superseded portion for three years after each change.

(k) A system of records and reports must be established, maintained, and followed that will provide information sufficient to locate special nuclear material and to close a measured material balance around each material balance area and the total plant, as specified in § 70.51. As required by § 70.51, the licensee shall retain the records associated with this system for three years after the records are made. This system shall include:

* * * * *

84. In § 70.60, paragraph (a) is revised to read as follows:

§ 70.60 Well-logging operations using sealed sources.

(a) A licensee may perform well-logging operations with a sealed source only after the licensee executes a written agreement with the well owner or operator that, within thirty (30) days after a well-logging source has been classified as irretrievable, the following requirements will be implemented. The licensee shall retain this written agreement as a record for three years after completion of the well-logging operations that are the subject of the agreement.

* * * * *

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

85. The authority citation for Part 71 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

86. In § 71.1, the existing paragraph is designated (a) and the section heading is revised and a new paragraph (b) is added to read as follows:

§ 71.1 Communications and records.

* * * * *

(b) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

87. Section 71.91 is revised to read as follows:

§ 71.91 Records.

(a) Each licensee shall maintain for a period of three years after shipment a record of each shipment of licensed material not exempt under § 71.10, showing, where applicable:

(1) Identification of the packaging by model number;

(2) Verification that there are no significant defects in the packaging, as shipped;

(3) Volume and identification of coolant;

(4) Type and quantity of licensed material in each package, and the total quantity of each shipment;

(5) For each item of irradiated fissile material:

(i) Identification by model number and/or serial number;

(ii) Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and

(iii) Any abnormal or unusual condition relevant to radiation safety.

(6) Date of the shipment;

(7) For Fissile Class III and for Type B packages, any special controls exercised;

(8) Name and address of the transferee;

(9) Address to which the shipment was made; and

(10) Results of the determinations required by § 71.87 and by the conditions of the package approval.

(b) The licensee shall make available to the Commission for inspection, upon reasonable notice, all records required by this part. Records shall be considered valid only if stamped, initialed, or signed and dated by authorized personnel or otherwise authenticated.

(c) Each licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by 71.85: design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring of work performance and materials analyses; and results of maintenance, modification, and repair. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability and the action taken in connection with any deficiencies noted. The records must be retained for the life of the packaging to which they apply and three years thereafter.

88. In § 71.97, paragraphs (c)(4), (e), and (f)(2) are revised to read as follows:

§ 71.97 Advance notification of shipment of nuclear waste.

* * * * *

(c) * * *

(4) The licensee shall retain a copy of the notification as a record for three years.

* * * * *

(e) *Revision notice.* A licensee who finds that schedule information previously furnished to a governor or governor's designee in accordance with this section will not be met, shall telephone a responsible individual in the office of the governor of the State or of the governor's designee and inform that

individual of the extent of the delay beyond the schedule originally reported. The licensee shall maintain a record of the name of the individual contacted for three years.

(f) * * *

(2) The licensee shall state in the notice that it is a cancellation and shall identify the advance notification which is being cancelled. The licensee shall retain a copy of the notice as a record for three years.

89. In § 71.101, paragraph (b) is revised to read as follows:

Subpart H—Quality Assurance

§ 71.101 Quality assurance requirements.

* * * * *

(b) Each licensee shall establish, maintain, and execute a quality assurance program satisfying each of the applicable criteria of §§ 71.101 through 71.137 of this subpart and satisfying any specific provisions that are applicable to the licensee's activities, including procurement of packaging. The licensee shall apply each of the applicable criteria in a graded approach, i.e., to an extent that is consistent with its importance to safety.

* * * * *

90. In § 71.105, paragraph (a) is revised to read as follows:

§ 71.105 Quality assurance program.

(a) The licensee shall establish, at the earliest practicable time, consistent with the schedule for accomplishing the activities, a quality assurance program that complies with the requirements of §§ 71.101 through 71.137 of this subpart. The licensee shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which packaging is used. The licensee shall identify the material and components to be covered by the quality assurance program, the major organizations participating in the program, and the designated functions of these organizations.

* * * * *

91. In § 71.135 paragraph (a) is revised to read as follows:

§ 71.135 Quality assurance records.

(a) The licensee shall maintain sufficient written records to describe the activities affecting quality. The records must include the instructions, procedures, and drawings required by § 71.111 to prescribe quality assurance activities and must include closely related specifications such as required qualifications of personnel, procedures, and equipment. The records must include the instructions or procedures which establish a records retention program that is consistent with applicable regulations and designates factors such as duration, location, and assigned responsibility The licensee shall retain these records for three years beyond the date when the licensee last engages in the activity for which the quality assurance program was developed. If any portion of the written procedures or instructions is superseded, the licensee shall retain the superseded material for three years after it is superseded.

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

92. The authority citation for Part 73 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

93. In § 73.24, paragraph (b)(1) is revised to read as follows:

§ 73.24 Prohibitions.

* * * * *

(b) * * *

(1) The licensee shall confirm and log the arrival at the final destination of each individual shipment and retain the log for three years from the date of the last entry in the log. The licensee shall also schedule shipments to ensure that the total quantity for two or more shipments in transit at the same time does not equal or exceed the formula quantity, or

* * * * *

94. In § 73.25, the introductory text to paragraphs (b)(3) and (c)(1) are revised to read as follows:

§ 73.25 Performance capabilities for physical protection of strategic special nuclear material in transit.

* * * * *

(b) * * *

(3) Detect attempts to gain unauthorized access or introduce unauthorized materials into the vicinity of transports by deceit using the following subsystems and subfunctions. The licensee shall retain a copy of the current procedures required in paragraphs (b)(3) (i) and (ii) of this section as a record for three years after close of period licensee possesses special nuclear material under each license for which the procedures were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change.

* * * * *

(c) * * *

(1) Detect attempts to gain unauthorized entry or introduce unauthorized materials into transports by deceit using the following subsystems and subfunctions. The licensee shall retain a copy of the current procedures required in paragraphs (c)(1) (i) and (ii) of this section as a record for three years after close of period licensee possesses special nuclear material under each license for which the procedures were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change.

* * * * *

95. In § 73.26, paragraphs (c) (1)(ii) and (2), the introductory text of paragraph (d)(3), and paragraphs (d)(4) and (e)(1) are revised to read as follows:

§ 73.26 Transportation physical protection systems, subsystems, components, and procedures.

* * * * *

(c) * * *

(1) * * *

(ii) The shipment shall be protected at all times within the geographical limits of the United States as provided in this section and §§ 73.25 and 73.27. The licensee shall retain each record required by these sections for three years after close of period licensee possesses special nuclear material under each license authorizing the licensee to ship this material, and superseded material for three years after each change.

(2) A licensee who exports a formula quantity of strategic special nuclear material shall comply with the requirements of this section and §§ 73.25 and 73.27, as applicable, up to the first point where the shipment is taken off the transport outside the United States. The licensee shall retain each record required by these sections for three years after close of period licensee possesses special nuclear material under each license authorizing the licensee to export this material, and superseded material for three years after each change.

(d) * * *

(3) The licensee or the licensee's agent shall establish, maintain, and follow a written management system to provide for the development, revision, implementation, and enforcement of transportation physical protection procedures.

The licensee or the agent shall retain as a record the current management system for three years after close of period licensee possesses special nuclear material under the license for

which the system was developed and, if any portion of the system is superseded, retain the superseded material for three years after each change. The system shall include:

* * * * *

(4) Neither the licensee nor the licensee's agent shall permit an individual to act as an escort or other security organization member unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with Appendix B, of this part, "General Criteria for Security Personnel." Upon the request of an authorized representative of the Commission, the licensee or the agent shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities. Armed escorts shall requalify in accordance with Appendix B to this part at least every 12 months. Each requalification must be documented. The licensee or the agent shall retain documentation of the initial qualification for the term of employment and of each requalification as a record for three years from the date of the requalification.

* * * * *

(e) *Contingency and Response Plans and Procedures.* (1) The licensee or the licensee's agent shall establish, maintain, and follow a written safeguards contingency plan for dealing with threats, thefts, and radiological sabotage related to strategic special nuclear material in transit subject to the provisions of this section. This safeguards contingency plan must be in accordance with the criteria in Appendix C to this part, "Licensee Safeguards Contingency Plan." The licensee or the agent shall retain the contingency plan as a record for three years after close of period licensee possesses special nuclear material under each license for which the plan is used and superseded material for three years after each change.

* * * * *

96. In § 73.37, paragraphs (b)(2), (b)(5), and the introductory text of paragraph (b)(3) are revised to read as follows:

§ 73.37 Requirements for physical protection of irradiated reactor fuel in transit.

* * * * *

(b) * * *

(2) Include and retain a copy of current procedures for coping with circumstances that threaten deliberate damage to a spent fuel shipment and with other safeguards emergencies as a record for three years after close of period licensee possesses special nuclear material under each license for which the procedures were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change.

(3) Include instructions for each escort and retain a copy of the current instructions as a record for three years after close of period licensee possesses special nuclear material under each license that authorizes the activity that requires the instruction and retain any superseded material for three years after each change. The instructions must direct that, upon detection of the abnormal presence of unauthorized persons, vehicles, or vessels in the vicinity of a spent fuel shipment or upon detection of a deliberately induced situation that has the potential for damaging a spent fuel shipment, the escort will:

* * * * *

(5) Provide for maintenance of a written log by the escorts and communications center personnel for each spent fuel shipment, which will include information describing the shipment and significant events that occur during the shipment, and will be available for review by authorized NRC personnel for a period of at least three years following completion of the shipment.

* * * * *

97. In § 73.40, paragraphs (b), (c)(2), and (d) are revised to read as follows:

§ 73.40 Physical protection: General requirements at fixed sites.

* * * * *

(b) Each licensee subject to the requirements of §§ 73.20, 73.45, 73.46, 73.50, 73.55, or § 73.60 shall prepare a safeguards contingency plan in accordance with the criteria set forth in Appendix C to this part. The licensee shall retain the current plan as a record until the Commission terminates the license for which the plan was developed and, if any portion of the plan is superseded, retain the superseded material for three years after each change. The safeguards contingency plan shall include plans for dealing with threats, thefts, and industrial sabotage relating to nuclear facilities licensed under Part 50 or to the possession of special nuclear material licensed under Part 70 of this chapter. Each licensee subject to the requirements of this paragraph shall submit to the Commission for approval the first four categories of information contained in the safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to this part, are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.) [1] The plan shall become effective and be followed by the licensee 30 days after approval by the Commission.

(c) * * *

(2) Detailed procedures developed according to Appendix C to this part available at the licensee's site. The licensee shall retain a copy of the current procedures as a record until the Commission terminates the license for which the procedures were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change, and

* * * * *

(d) The licensee shall provide for the implementation, revision, and maintnance of this safeguards contingency plan. To this end, the licensee shall provide for a review at least every twelve months of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review shall include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards system along with commitments established for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements shall be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of three years from the date of the review or audit.

98. In § 73.46, paragraphs (b)(3)(i), (b)(4), (d)(3), (d)(10), (d)(13), (h)(1), and (h)(2) are revised to read as follows:

§ 73.46 Fixed site physical protection systems, subsystems, components, and procedures.

* * * * *

(b) * * *

(3) * * *

(i) Written security procedures that document the structure of the security organization and detail the duties of

[1] Licensees subject to § 73.55 may modify their physical security plans to incorporate contingency plan information specified in Appendix C to this part. A physical security plan that contains all the information required in both § 73.55 and Appendix C to Part 73 satisfies the requirement for a contingency plan.

guards, watchmen, and other individuals responsible for security. The licensee shall retain a copy of the current procedures as a record until the Commission terminates the license for which they were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change; and

* * * * *

(4) The licensee shall not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with Appendix B to this part "General Criteria for Security Personnel." Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel, whether licensee or contractor employees, to carry out their assigned duties and responsibilities. Each guard, watchman, armed response person, or other member of the security organization, whether a licensee or contractor employee, shall requalify in accordance with Appendix B to this part at least every 12 months. This requalification shall be documented. The licensee shall retain the documentation of each requalification as a record for three years after the requalification.

* * * * *

(d) * * *

(3) The licensee shall establish and follow written procedures that will permit access control personnel to identify those vehicles that are authorized and those materials that are not authorized entry to protected, material access, and vital areas. The licensee shall retain a copy of the current procedures as a record until the Commission terminates each license for which the procedures were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change.

* * * * *

(10) Before exiting from a material access area, containers of contaminated wastes shall be drum scanned and tamper sealed by at least two individuals, working and recording their findings as a team, who do not have access to material processing and storage areas. The licensee shall retain the records of these findings for three years after the record is made.

* * * * *

(13) Individuals not permitted by the licensee to enter protected areas without escort shall be escorted by a watchman or other individual designated by the licensee while in a protected area and shall be badged to indicate that an escort is required. In addition, the individual shall be required to register his or her name, date, time, purpose of visit and employment affiliation, citizenship, and name of the individual to be visited in a log. The licensee shall retain each log as a record for three years after the last entry is made in the log.

* * * * *

(h) * * *

(1) The licensee shall have a safeguards contingency plan for dealing with threats, thefts, and radiological sabotage related to the strategic special nuclear material and nuclear facilities subject to the provisions of this section. Safeguards contingency plans must be in accordance with the criteria in Appendix C to this part, "Licensee Safeguards Contingency Plans." Contingency plans must include, but need not be limited to, the response requirements in paragraphs (h)(2) through (h)(5) of this section. The licensee shall retain a copy of the current safeguards contingency plan as a record until the Commission terminates the license and, if any portion of the plan is superseded, retain the superseded material for three years after each change.

(2) The licensee shall establish and document response arrangements that have been made with local law enforcement authorities. The licensee shall retain documentation of the current arrangements as a record until the Commission terminates each license requiring the arrangements and, if any arrangement is superseded, retain the superseded material for three years after each change.

* * * * *

99. In § 73.50, paragraphs (a) (3) and (4), (c)(5), and (g) (1) and (2) are revised to read as follows:

§ 73.50 Requirements for physical protection of licensed activities.

* * * * *

(a) * * *

(3) The licensee shall establish, maintain, and follow written security procedures that document the structure of the security organization and detail the duties of guards, watchmen, and other individuals responsible for security. The licensee shall retain a copy of the current procedures as a record until the Commission terminates each license for which the procedures were developed and, if any portion of the procedures is superseded, retain the superseded material for three years after each change.

(4) The licensee shall not permit an individual to act as a guard, watchman, armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with Appendix B, "General Criteria for Security Personnel," to this part. Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities. Each guard, watchman, armed response person, and other member of the security organization shall requalify in accordance with Appendix B to this part at least every 12 months. This requalification must be documented. The licensee shall retain the documentation of each requalification as a record for three years after the requalification.

* * * * *

(c) * * *

(5) Individuals not employed by the licensee must be escorted by a watchman, or other individual designated by the licensee, while in a protected area and must be badged to indicate that an escort is required. In addition, the licensee shall require that each individual not employed by the licensee register his or her name, date, time, purpose of visit, employment affiliation, citizenship, name and badge number of the escort, and name of the individual to be visited. The licensee shall retain the register of information for three years after the last entry is made in the register. Except for a driver of a delivery or service vehicle, an individual not employed by the licensee who requires frequent and extended access to a protected area or a vital area need not be escorted if the individual is provided with a picture badge, which the individual must receive upon entrance into the protected area and return each time he or she leaves the protected area, that indicates:

(i) Nonemployee-no escort required,

(ii) Areas to which access is authorized, and

(iii) The period for which access has been authorized.

* * * * *

(g) *Response requirement.* (1) The licensee shall have a safeguards contingency plan for dealing with threats, thefts, and industrial sabotage related to the special nuclear material and nuclear facilities subject to the provisions of this section. Safeguards

contingency plans must be in accordance with the criteria in Appendix C to this part, "Licensee Safeguards Contingency Plans." The licensee shall retain a copy of the plan and each change to the plan as a record until the Commission terminates each license for which the plan was developed and retain the superseded materials for three years after each change.

(2) The licensee shall establish and document liaison with law enforcement authorities. The licensee shall retain the documentation of the current liaison as a record until the Commission terminates each license for which the liaison was developed and, if any portion of the liaison documentation is superseded, retain the superseded material for three years after each change.

* * * * *

100. In § 73.55, paragraphs (b)(1) and (3) (i) and (ii) and (4), (d)(6), and (h)(2) are revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

* * * * *

(b) *Physical Security Organization.* (1) The licensee shall establish a security organization, including guards, to protect his facility against radiological sabotage. If a contract guard force is utilized for site security, the licensee's written agreement with the contractor that must be retained by the licensee as a record for the duration of the contract will clearly show that:

(i) The licensee is responsible to the Commission for maintaining safeguards in accordance with Commission regulations and the licensee's security plan,

(ii) The NRC may inspect, copy, and take away copies of all reports and documents required to be kept by Commission regulations, orders, or applicable license conditions whether such reports and documents are kept by the licensee or the contractor,

(iii) The requirement in paragraph (b)(4) of this section that the licensee demonstrate the ability of physical security personnel to perform their assigned duties and responsibilities, includes demonstration of the ability of the contractor's physical security personnel to perform their assigned duties and responsibilities in carrying out the provisions of the Security Plan and these regulations, and

(iv) The contractor will not assign any personnel to the site who have not first been made aware of these responsibilities.

* * * * *

(3) * * *

(i) Written security procedures that document the structure of the security organization and detail the duties of guards, watchmen, and other individuals responsible for security. The licensee shall maintain a copy of the current procedures as a record until the Commission terminates each license for which the procedures were developed and, if any portion of the procedure is superseded, retain the superseded material for three years after each change.

(ii) Provision for written approval of these procedures and any revisions thereto by the individual with overall responsibility for the security functions. The licensee shall retain each written approval as a record for three years from the date of the approval.

(4)(i) The licensee shall not permit an individual to act as a guard, watchman armed response person, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security job duty in accordance with Appendix B, "General Criteria for Security Personnel," to this part. Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel to carry out their assigned duties and responsibilities. Each guard, watchman, armed response person, and other member of the security organization shall requalify in accordance with Appendix B to this part at least every 12 months. This requalification shall be documented. The licensee shall retain the documentation of each requalification as a record for three years after the requalification.

(ii) Each licensee shall submit a training and qualifications plan outlining the processes by which guards, watchmen, armed response persons, and other members of the security organization will be selected, trained, equipped, tested, and qualified to ensure that these individuals meet the requirements of this paragraph. The licensee shall maintain a current copy of the training and qualifications plan as a record until the Commission terminates each license for which the plan was developed and, if any portion of the plan is superseded, retain the material that is superseded for three years after each change. The training and qualifications plan must include a schedule to show how all security personnel will be qualified two years after the submitted plan is approved. The training and qualifications plan must be followed by the licensee 60 days after the submitted plan is approved by the NRC.

* * * * *

(d) * * *

(6) Individuals not authorized by the licensee to enter protected areas without escort shall be escorted by a watchman or other individual designated by the licensee while in a protected area and shall be badged to indicate that an escort is required. In addition, the licensee shall require that each individual register his or her name, date, time, purpose of visit, employment affiliation, citizenship, and name of the individual to be visited. The licensee shall retain the register of information for three years after the last entry in the register.

* * * * *

(h) * * *

(2) The licensee shall establish and document liaison with local law enforcement authorities. The licensee shall retain documentation of the current liaison as a record until the Commission terminates each license for which the liaison was developed and, if any portion of the liaison documentation is superseded, retain the superseded material for three years after each change.

* * * * *

101. In § 73.67, paragraphs (c)(1); (d)(5) and (11); (e)(3)(iv), (e)(5), and (e)(6) introductory text and (e)(6))(i), and the introductory text to (e)(4); (f)(4); and (g)(3)(i), (g)(4), and (g)(5)(i) are revised to read as follows:

§ 73.67 Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic significance.

* * * * *

(c) * * *

(1) Submit a security plan or an amended security plan describing how the licensee will comply with all the requirements of paragraphs (d), (e), (f), and (g) of this section, as appropriate, including schedules of implementation. The licensee shall retain a copy of the effective security plan as a record for three years after close of period licensee possesses special nuclear material under each license for which the original plan was submitted. Copies of superseded material shall be retained for three years after each change.

* * * * *

(d) * * *

(5) Develop and maintain a written controlled badging and lock system to identify and limit access to the

controlled access areas to authorized individuals. The licensee shall retain a record of the effective system for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license for which the original system was developed, and for three years thereafter. Copies of superseded material shall be retained for three years after each change.

* * * * *

(11) Establish and maintain written response procedures for dealing with threats of thefts or thefts of these materials. The licensee shall retain a copy of the response procedures as a record for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license for which the original procedures were developed and, for three years thereafter. Copies of superseded material shall be retained for three years after each change.

(e) * * *

(3) * * *

(iv) Establish and maintain written response procedures for dealing with threats of thefts or thefts of such material. The licensee shall retain a copy of the current response procedures as a record for three years after close of period licensee possesses special nuclear material under each license for which the original procedures were developed and copies of superseded material shall be retained for three years after each change.

* * * * *

(4) Each licensee who arranges the physical protection of strategic special nuclear material in quantities of moderate strategic significance while in transit or who takes delivery of this material free on board (f.o.b.) the point at which it is delivered to a carrier for transport shall comply with the requirements of paragraphs (e) (1), (2), and (3) of this section. The licensee shall retain each record required by paragraphs (e) (1), (2), (3), and (4) (i) and (ii) of this section for three years after close of period licensee possesses special nuclear material under each license that authorizes these licensee activities. Copies of superseded material shall be retained for three years after each change. In addition, the licensee shall—

* * * * *

(5) Each licensee who exports special nuclear material of moderate strategic significance shall comply with the requirements specified in paragraphs (c) and (e) (1), (3), and (4) of this section. The licensee shall retain each record required by these sections for three years after close of period licensee possesses special nuclear material under each license that authorizes the licensee to export this material. Copies of superseded material shall be retained for three years after each change.

(6) Each licensee who imports special nuclear material of moderate strategic significance shall—

(i) Comply with the requirements specified in paragraphs (c) and (e) (2), (3), and (4) of this section. The licensee shall retain each record required by these sections for three years after close of period licensee possesses special nuclear material under each license that authorizes the licensee to import this material. Copies of superseded material shall be retained for three years after each change.

* * * * *

(f) * * *

(4) Establish and maintain response procedures for dealing with threats of thefts or thefts of this material. The licensee shall retain a copy of the current response procedures as a record for three years after close of period licensee possesses special nuclear material under each license for which the procedures were established. Copies of superseded material shall be retained for three years after each change.

(g) * * *

(3) * * *

(i) Establish and maintain response procedures for dealing with threats or thefts of this material. The licensee shall retain a copy of the current response procedures as a record for three years after close of period licensee possesses special nuclear material under each license for which the procedures were established. Copies of superseded material shall be retained for three years after each change.

* * * * *

(4) Each licensee who exports special nuclear material of low strategic significance shall comply with the appropriate requirements specified in paragraphs (c) and (g) (1) and (3) of this section. The licensee shall retain each record required by these sections for three years after close of period licensee possesses special nuclear material under each license that authorizes the licensee to export this material. Copies of superseded material shall be retained for three years after each change.

(5) * * *

(i) Comply with the requirements specified in paragraphs (c) and (g) (2) and (3) of this section and retain each record required by these paragraphs for three years after close of period licensee possesses special nuclear material under each license that authorizes the licensee to import this material. Copies of superseded material shall be retained for three years after each change.

* * * * *

102. Section 73.70 is revised to read as follows:

§ 73.70 Records.

Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. Each licensee subject to the provisions of §§ 73.20, 73.25, 73.26, 73.27, 73.45, 73.46, 73.55, or 73.60 shall keep the following records:

(a) Names and addresses of all individuals who have been designated as authorized individuals. The licensee shall retain this record of currently designated authorized individuals for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license that authorizes the activity that is subject to the recordkeeping requirement and, for three years thereafter. Copies of superseded material shall be retained for three years after each change.

(b) Names, addresses, and badge numbers of all individuals authorized to have access to vital equipment or special nuclear material, and the vital areas and material access areas to which authorization is granted. The licensee shall retain the record of individuals currently authorized this access for the period during which the licensee possesses the appropriate type and quantity of special nuclear material requiring this record under each license that authorizes the activity that is subject to the recordkeeping requirement and, for three years thereafter. Copies of superseded material shall be retained for three years after each change.

(c) A register of visitors, vendors, and other individuals not employed by the licensee pursuant to § 73.46(d)(1), § 73.55(d)(6), or § 73.60. The licensee shall retain this register as a record for three years after the last entry is made in the register.

(d) A log indicating name, badge number, time of entry, reason for entry, and time of exit of all individuals granted access to a normally unoccupied

vital area. The licensee shall retain this log as a record for three years after the last entry is made in the log.

(e) Documentation of all routine security tours and inspections, and of all tests, inspections, and maintenance performed on physical barriers, intrusion alarms, communications equipment, and other security related equipment used pursuant to the requirements of this part. The licensee shall retain the documentation for these events for three years from the date of documenting each event.

(f) A record at each onsite alarm annunciation location of each alarm, false alarm, alarm check, and tamper indication that identifies the type of alarm, location, alarm circuit, date, and time. In addition, details of response by facility guards and watchmen to each alarm, intrusion, or other security incident shall be recorded. The license shall retain each record for three years after the record is made.

(g) Shipments of special nuclear material subject to the requirements of this part, including names of carriers, major roads to be used, flight numbers in the case of air shipments, dates and expected times of departure and arrival of shipments, verification of communication equipment on board the transfer vehicle, names of individuals who are to communicate with the transport vehicle, container seal descriptions and identification, and any other information to confirm the means utilized to comply with §§ 73.25, 73.26, and 73.27. This information must be recorded prior to shipment. Information obtained during the course of the shipment such as reports of all communications, change of shipping plan, including monitor changes, trace investigations, and others must also be recorded. The licensee shall retain each record about a shipment required by this paragraph (g) for three years after the record is made.

(h) Procedures for controlling access to protected areas and for controlling access to keys for locks used to protect special nuclear material. The licensee shall retain a copy of the current procedures as a record until the Commission terminates each license for which the procedures were developed and, if any portion of the procedure is superseded, retain the superseded material for three years after each change.

103. In Appendix B to Part 73, Section I. C, E, and F and II. A, B, C, and E, and the introductory text to Section IV are revised to read as follows:

Appendix B—General Criteria for Security Personnel

* * * * *

Criteria

I. * * *

C. Physical fitness qualifications—Subject to a medical examination conducted within the preceding 30 days and to a determination and written certification by a licensed physician that there are no medical contraindications to participation by the individual as disclosed by the medical examination, guards, armed response personnel, and armed escorts shall demonstrate physical fitness for assigned security job duties by performing a practical physical exercise program within a specific time period. The exercise program performance objectives must be described in the licensee training and qualifications plan and must consider such job-related functions as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations. The physical fitness qualification of each guard, armed response person, and armed escort must be documented and attested by a licensee security supervisor. The licensee shall retain this documentation as a record for three years from the date of each qualification.

* * * * *

E. Physical requalification—At least every 12 months, central alarm station operators shall be required to meet the physical requirements of B.1.b of this section, and guards, armed response personnel, and armed escorts shall be required to meet the physical requirements of paragraphs B.1.b (1) and (2), and C of this section. The licensee shall document each individual's physical requalification and shall retain this documentation of requalification as a record for three years from the date of each requalification.

F. Documentation—The results of suitability, physical, and mental qualifications data and test results must be documented by the licensee or the licensee's agent. The licensee or the agent shall retain this documentation as a record for three years from the date of obtaining and recording these results.

* * * * *

II. Training and Qualifications

A. Training requirements—Each individual who requires training to perform assigned security-related job tasks or job duties as identified in the licensee physical security or contingency plans shall, prior to assignment, be trained to perform these tasks and duties in accordance with the licensee or the licensee's agent's documented training and qualifications plan. The licensee or the agent shall maintain documentation of the current plan and retain this documentation of the plan as a record for three years after close of period licensee possesses special nuclear material under each license for which the plan was developed and, if any portion of the plan is superseded, retain the material that is superseded for three years after each change.

B. Qualification requirements—Each person who performs security-related job tasks or job duties required to implement the licensee physical security or contingency plan shall, prior to being assigned to these tasks or duties, be qualified in accordance with the licensee's NRC-approved training and qualifications plan. The qualifications of each individual must be documented and attested by a licensee security supervisor. The licensee shall retain this documentation of each individual's qualifications as a record for three years after the employee ends employment in the security-related capacity and for three years after close of period licensee possesses special nuclear material under each license, and superseded material for three years after each change.

C. Contract personnel—Contract personnel shall be trained, equipped, and qualified as appropriate to their assigned security-related job tasks or job duties, in accordance with sections II, III, IV, and V of this appendix. The qualifications of each individual must be documented and attested by a licensee security supervisor. The licensee shall retain this documentation of each individual's qualifications as a record for three years after the employee ends employment in the security-related capacity and for three years after close of period licensee possesses special nuclear material under each license, and superseded material for three years after each change.

* * * * *

E. Requalification—Security personnel shall be requalified at least every 12 months to perform assigned security-related job tasks and duties for both normal and contingency operations. Requalification shall be in accordance with the NRC-approved licensee training and qualifications plan. The results of requalification must be documented and attested by a licensee security supervisor. The licensee shall retain this documentation of each individual's requalification as a record for three years from the date of each requalification.

* * * * *

IV. Weapons Qualification and Requalification Program

Qualification firing for the handgun and the rifle must be for daylight firing, and each individual shall perform night firing for familiarization with assigned weapon(s). The results of weapons qualification and requalification must be documented by the licensee or the licensee's agent. Each individual shall be requalified at least every 12 months. The licensee shall retain this documentation of each qualification and requalification as a record for three years from the date of the qualification or requalification, as appropriate.

* * * * *

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

104. The authority citation for Part 74 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

105. In § 74.31, the introductory text of paragraph (a) and paragraphs (c) (1), (2), (5), (6), (7), and (8) and paragraph (d) are revised to read as follows:

§ 74.31 Nuclear material control and accounting for special nuclear material of low strategic significance.

(a) *General performance objectives.* Each licensee who is authorized to possess and use more than one effective kilogram of special nuclear material of low strategic significance, excluding sealed sources, at any site or contiguous sites subject to control by the licensee, other than a production or utilization facility licensed pursuant to Part 50 of this chapter, or operations involved in waste disposal, shall implement and maintain a Commission-approved material control and accounting system that will achieve the following objectives. The licensee shall retain the current Commission-approved system until the Commission terminates each license to possess this material.

* * * * *

(c) * * *

(1) Establish, document, and maintain a management structure which ensures clear overall responsibility for material control and accounting functions, independence from production responsibilities, separation of key responsibilities, and adequate review and use of critical material control and accounting procedures. The licensee shall retain this documentation of the current management structure until the Commission terminates each license to possess this material;

(2) Establish and maintain a measurement system which ensures that all quantities in the material accounting records are based on measured values. The licensee shall retain a copy of a description of the current measurement system until the Commission terminates each license to possess this material;

* * * * *

(5) Unless otherwise required to satisfy Part 75 of this chapter, perform a physical inventory at least every 12 months and, within 60 days after the start of the inventory, reconcile and adjust the book inventory to the results of the physical inventory, and resolve or report an inability to resolve any inventory difference which is rejected by a statistical test that has a 90 percent power of detecting a discrepancy of a quantity of uranium-235 established by NRC on a site-specific basis. The licensee shall record the results of each physical inventory and retain this record for three years after the record is made. The licensee shall also record the source data for resolving any inventory difference and retain this record for three years after the required 60-day reporting date;

(6) Maintain current knowledge of items when the sum of the time of existence of an item, the time to make a record of the item, and the time necessary to locate the item exceeds 14 days. Store and handle, or subsequently measure, items in a manner so that unauthorized removals of substantial quantities of material from items will be detected. Exempted are items individually containing less than 500 grams of U^{235} up to a total of 50 kilograms of U^{235}, solutions with a concentration of less than 5 grams of U^{235} per liter, and items of waste destined for burial or incineration. The licensee shall record evidence of its current knowledge of these items and retain this record for three years after the record is made;

(7) Resolve, on a shipment basis, and when required to satisfy Part 75 of this chapter, on a batch basis, shipper/receiver differences that exceed both twice the combined measurement standard error for that shipment and 500 grams of U^{235}. The licensee shall record these excessive shipper-receiver differences and retain this record for three years after the record is made; and

(8) Independently assess the effectiveness of the material control and accounting system at least every 24 months, and document management's action on prior assessment recommendations. The licensee shall retain this documentation of management's action as a record for three years after the record is made.

(d) Each licensee shall maintain and retain records as required by paragraph (c) of this section unless a longer retention time is required by Part 75 of this chapter.

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

106. The authority citation for Part 75 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

107. The heading for § 75.6 is revised and a new paragraph (e) is added to read as follows:

§ 75.6 Maintenance of records and delivery of information, reports, and other communications.

* * * * *

(e) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

108. In § 75.12, paragraphs (b) (1) and (4) are revised to read as follows:

§ 75.12 Communication of information to IAEA.

* * * * *

(b)(1) A licensee may request that information of particular sensitivity, which it customarily holds in confidence, not be transmitted physically to the IAEA. A licensee who makes such a request should, at the time the information is submitted, identify the pertinent document or part thereof and make a full statement of the reasons supporting the request. The licensee shall retain a copy of the request and all documents related to the request as a record until the Commission terminates the license for each installation involved with the request or until the Commission notifies the licensee that the licensee is no longer under the agreement, and superseded material shall be retained for three years after each change is made.

* * * * *

(4) If a request is granted, the Commission will determine a location where the information will remain readily available for examination by the IAEA and will so inform the licensee. The licensee shall retain this information as a record until the Commission terminates the license for the installation involved with the request or until the Commission notifies the licensee that the licensee is no longer under the agreement, and superseded material shall be retained for three years after each change is made.

* * * * *

109. In § 75.21, paragraph (a) is revised to read as follows:

§ 75.21 General requirements.

(a) Each licensee who has been given notice by the Commission in writing that its installation has been identified under the Agreement shall establish, maintain, and follow written material accounting and control procedures. The licensee

shall retain as a record current material accounting and control procedures until the Commission terminates the license for the installation involved with the request or until the Commission notifies the licensee that the licensee is no longer under the agreement, and superseded material shall be retained for three years after each change is made.

* * * * *

PART 95—SECURITY FACILITY APPROVAL AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

110. The authority citation for Part 95 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

111. Section 95.11 is revised to read as follows:

§ 95.11 Specific exemptions.

The Commission may, upon application of any interested party, grant an exemption from the requirements of Part 95. Exemptions will be granted only if they are authorized by law and will not constitute an undue risk to the common defense and security. The licensee shall retain the documentation related to the request, notification, and processing of an exemption for three years beyond the period covered by the exemption.

112. Section 95.13 is revised to read as follows:

§ 95.13 Records maintenance.

(a) Each licensee or organization granted security facility approval under this part shall maintain such records as prescribed within the part. These records shall be subject to review and inspection by NRC representatives during security surveys.

(b) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

113. In § 95.25, paragraphs (a)(3) and (h) are revised to read as follows:

§ 95.25 Protection of national security information and restricted data in storage.

(a) * * *

(3) When protective personnel are used, physical checks of security containers must be made as soon as possible after the close of each normal workday and at least once every eight hours thereafter during non-working hours. The licensee shall record the results of these checks and retain each record for three years after it is made.

* * * * *

(h) *Unattended security container found opened.* In the event that an unattended security container housing classified matter is found unlocked, the custodian or an alternate shall be notified immediately. The container shall be secured by protective personnel and the contents shall be inventoried as soon as possible but not later than the next workday. A report reflecting all actions taken shall be submitted to the responsible Regional Office (see Appendix A, 10 CFR Part 73 for addresses) with an information copy to the NRC Division of Security. The licensee shall retain records pertaining to these matters for three years after completion of final corrective action.

§ 95.33 [Amended]

114. Section 95.33 is amended by changing "one year" to "three years" in the last sentence.

115. In § 95.37, paragraph (i) is revised to read as follows:

§ 95.37 Classification and preparation of documents.

* * * * *

(i) Document which custodian believes is improperly classified or lacking appropriate classification markings. If a person receives a document which, in his or her opinion, is not properly classified, or does not have appropriate classification markings, he or she shall immediately notify the sender and suggest to the originator the classification which he believes to be appropriate. Whenever requested, this challenge of classification marking shall be handled in a manner which will ensure the anonymity of the challenger. Pending final determination of proper classification, such document shall be safeguarded in accordance with the procedures required for the highest classification in question. Where unauthorized disclosure may have occurred, a report in accordance with § 95.57 of this part is required. These reports shall be retained for three years after final corrective action has been taken.

* * * * *

§ 95.41 [Amended]

116. Section 95.41 is amended by changing "two years" to "three years" in the last sentence.

117. Section 95.47 is revised to read as follows:

§ 95.47 Destruction of matter containing national security information and/or restricted data.

Documents containing National Security Information and/or Restricted Data may be destroyed by burning, pulping, or another method that ensures complete destruction of the information which they contain. The method of destruction must preclude recognition or reconstruction of the classified information. Any doubts on methods should be referred to the NRC Division of Security. If the document contains Secret National Security Information and/or Restricted Data a record of the subject or title, document number, if any, originator, its date of origination, its series designation and copy number, and the date of destruction shall be signed by the person destroying the document and shall be maintained in the office of the custodian at the time of destruction. These destruction records shall be retained for three years after destruction.

PART 110—EXPORT AND IMPORT OF NUCLEAR FACILITIES AND MATERIALS

118. The authority citation for Part 110 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

119. In § 110.53, paragraph (b) is revised to read as follows:

§ 110.53 United States address, records, and inspections.

* * * * *

(b) Each licensee shall maintain records concerning his exports or imports. The licensee shall retain these records for five years after each export or import except that byproduct material records shall be retained for three years after each export or import.

* * * * *

Dated at Bethesda, Maryland, this 14th day of October 1987.

For the Nuclear Regulatory Commission.

Victor Stello,

Executive Director for Operations.

[FR Doc. 87-24732 Filed 10-27-87; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 606

Federal-State Unemployment Compensation Program; Tax Credits Under the Federal Unemployment Tax Act; Advances Under Title XII of the Social Security Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: With this notice the agency issues an invitation to comment on its proposal to adopt a new rule interpreting statutes under which the agency has delegated responsibilities concerning cap, avoidance, and waiver of tax credit reduction under the Federal Unemployment Tax Act and deferral and delay of payment of interest on advances made to States under Title XII of the Social Security Act. The agency proposes this informal rulemaking to place in the Code of Federal Regulations its previously announced and disseminated interpretations because the statutes in selected places require regulations and because some of the interpretations might be viewed as substantive in nature. This notice represents the first of a two-phase effort to issue comprehensive regulations concerning advances (loans), repayment of loans, interest payment, and relief from loan repayment and interest payment. The first phase includes regulations for relief provisions; the second phase will include the remaining issues.

DATE: Written comments must be received by the close of business on November 27, 1987.

ADDRESS: Submit comments to Carolyn M. Golding, Director, Unemployment Insurance Service, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James H. Manning, Chief, Division of Actuarial Services, Unemployment Insurance Service, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-4519, Washington, DC 20210, Telephone: (202) 535-0640 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under section 3301 of the Federal Unemployment Tax Act (FUTA), employers in all States are assessed an excise tax at a rate of 6.2 percent on a taxable wage base of $7,000. However, employers generally receive a maximum FUTA tax credit of 5.4 percent, resulting in a net Federal tax rate of 0.8 percent.

States with insufficient reserves in their unemployment funds to meet State benefit obligations may borrow from the Federal Unemployment Account (FUA). If a State does not repay the advances (loans) it may have within a specified period of time, employers in the State begin to lose the FUTA tax credit in increments of at least 0.3 percent per year. Specifically, if a balance of advances is outstanding on two consecutive January firsts and is not fully repaid prior to the following November 10, the FUTA tax credit applicable for that year for the State's employers is reduced by 0.3 percent. For each succeeding year in which a balance of loans remains outstanding, the reduction increases by at least 0.3 percent (i.e., 0.6, 0.9, 1.2 percent, etc.).

Additional tax credit reduction may apply to a State beginning with the third and fifth taxable years if a balance is still outstanding and certain criteria are not met. Essentially, the additional tax credit reduction above the 0.6 percent minimum beginning with the third year is the difference between the national percentage of all wages subject to the FUTA (that 2.7 percent of taxable wages represents) and the State's average contribution rate on total wages. The additional tax credit reduction above the 1.2 percent minimum beginning with the fifth year is equal to the difference between the State's benefit cost rate on taxable wages (or 2.7 percent, whichever is higher) and the State's average employer contribution rate on taxable wages.

Public Laws 97-35, 97-248, and 98-21 made major changes in the loan and repayment provisions: Interest of up to 10 percent is charged on loans made on or after April 1, 1982 (except for cash flow loans); and States are permitted relief from automatic loan repayment (tax credit reduction) and payment of interest if certain requirements are met. Briefly, the provisions for relief include:

—Limitation or cap on tax credit reduction
—Avoidance of tax credit reduction
—Waiver of and substitution for fifth-year additional tax credit reduction
—May/September delay of interest payment
—High unemployment deferral of interest payment
—High unemployment delay of interest payment

Phases

The issuance of comprehensive regulations concerning loans, repayment of loans, interest payment, and relief from loan repayment and interest payment will be undertaken in two phases. This notice of proposed rulemaking, the first phase, primarily includes the issues concerning relief noted above; the second phase will include the remaining issues.

Amendments to the Federal Unemployment Tax Act

Subsection (f)(1)-(7) added to section 3302 of the Federal Unemployment Tax Act (FUTA) by section 2406 of Pub. L. 97-35 provides certain conditions under which there may be a limitation of tax credit reduction that applies to employers' FUTA tax liability in States with outstanding loans from the Federal Unemployment Account (FUA).

Subsection (g) added to section 3302 of the FUTA by section 272 of Pub. L. 97-248 provides certain conditions for avoiding tax credit reduction.

A provision added to subparagraph (C) of section 3302(c)(2) of the FUTA by section 273 of Pub. L. 97-248 provides certain conditions under which certain additional tax credit reduction may be waived and another substituted.

Amendments to the Social Security Act

Subsection (b) added to section 1202 of the Social Security Act (SSA) by section 2407 of Pub. L. 97-35 and amended by section 511(B) of Pub. L. 98-21 imposes interest on advances, under most conditions, made to States beginning April 1, 1982. Interest is not assessed on loans obtained January through September and repaid prior to October 1, provided no other loan is obtained from October 1 through December 31 of the same calendar year.

Subsection (b)(3)(B) added to section 1202 of the SSA by section 2407(a) of Pub. L. 97-35 allows for delaying payment of interest accrued on advances made from May through September and due prior to October 1.

Subparagraph (C) added to section 1202(b)(3) of the SSA by section 274 of Pub. L. 97-248 permits, under certain high unemployment conditions, a State to defer payment of a portion of interest otherwise due for a year.

Paragraph (9) added to section 1202(b) of the SSA by section 511(a) of Pub. L. 97-21 provides, under certain high unemployment conditions, for delaying payment of interest otherwise due for a year.

Legislative-action interest deferrals obtained under subsection (b)(8) (A)-(C), added to section 1202 of the SSA by section 511(a) of Pub. L. 98-21, are no longer available. Nevertheless, States must maintain their solvency effort with

respect to the deferrals previously approved under this subsection.

Section by Section Explanation

Subpart A—General

Section 606–1 Purpose and scope.

Public Laws 97–35, 97–248, and 98–21 made major changes in the Federal Unemployment Tax Act and the Social Security Act with respect to advances under Title XII of the Social Security Act and the repayment of such advances. The changes with accompanying Federal law citations are set forth in § 606.1.

Section 606.2 Total credits allowable.

Section 606.2 specifies that total credits allowed to an employer subject to the tax imposed by section 3301 of the Federal Unemployment Tax Act shall not exceed 5.4 percent with respect to taxable years beginning after December 31, 1984.

Section 606.3 Definitions.

Definitions of tems used in connection with advances (loans) to States, repayment of loans, interest on loans, and relief from loan repayment and interest payment are set forth in § 606.3.

Section 606.4 Redelegation of authority.

The redelegation of authority to the Director of the Unemployment Insurance Service for the purposes of making determinations required under sections (c), (d), (f), and (g) of the FUTA and under 1202 of the SSA is set forth in § 606.4. Further, the section specifies that the Governor of a State may delegate authority with respect to action required under sections (c), (d), (f), and (g) of the FUTA and under section 1202 of the SSA.

Section 606.5 Verification of estimates and review of determinations.

Section 606.5 specifies that all data and information provided by States with respect to loans, repayment of loans, interest, and relief from loan repayment and interest payment will be verified by the Department. Further, the section prescribes that States may seek review of determinations made by the Director of the Unemployment Insurance Service.

Section 606.6 Information, reports, and studies.

Section 606.6 indicates that States must submit all information that the Director of the Unemployment Insurance Service may require for making determinations.

Subpart B—Tax Credit Reduction [Reserved]

Subpart C—Relief from Tax Credit Reduction

Section 606.20 Cap on tax credit reduction.

Section 606.20 describes the requirements a State must meet in order to limit or cap the tax credit reduction, as provided under subsection (f) of section 3302 of the FUTA; the tax credit reduction is capped at the higher of 0.6 percent or the rate of reduction that was in effect for the State for the preceding calendar year. The cap provisions are designed to give States additional time to make legislative and administrative changes necessary to restore the State unemployment fund to solvency. These provisions lengthen the repayment period, but do not reduce a State's total liability. To qualify for the cap on the automatic tax credit reduction, a State must demonstrate that:

(a) The State has taken no action decreasing the State's unemployment compensation (UC) system tax effort;

(b) The State has taken no action by which the net solvency of its UC system has diminished

(c) The State's average tax rate (on total wages) for the calendar year equals or exceeds its average benefit cost create (on total wages) for the prior five calendar years; and

(d) The outstanding loan balance as of September 30 of the tax year in consideration is not greater than on September 30 of the third preceding taxable year.

Section 606.21 Criteria for cap.

Section 606.21 explains what action is considered in determining if there has been a reduction in unemployment tax effort and a net decrease in solvency. The section also prescribes the rounding procedure with respect to the State unemployment tax rate and the five-year average benefit cost rate.

Section 606.22 Application for cap.

Section 606.22 prescribes the application procedures to be used by States in applying for caps. The section further indicates the data and documentation the States must submit in support of requests for caps.

Section 606.23 Avoidance of tax credit reduction.

Section 606.23 describes the requirements which allow States the option of repaying on or before November 9 a portion of its outstanding loans each year through transfer of a specified amount from its unemployment fund to the FUA, as provided under subsection (g) of section 3302 of the FUTA. The transfer to FUA would be in lieu of the increase, attributable to the application of section 3302(c)(2) of FUTA, in the net Federal tax of 0.8 percent paid by employers in that State. The State must meet the following criteria in order to avoid the tax credit reduction:

(a) Repay all loans for the one-year period ending on November 9, plus the additional tax that otherwise would be due by reason of the reduced credit provisions;

(b) Have sufficient funds remaining in the State unemployment fund after the transfer to pay benefits for at least three months from November 1 of the same year without receiving another Title XII advance; and

(c) Have taken action to increase the net solvency of its UC system and such net increase equals or exceeds the potential additional taxes for such taxable year.

Section 606.24 Application for avoidance.

Section 606.24 prescribes the application procedures to be used by States in applying for avoidance of tax credit reduction. The section further indicates the data and documentation the States must submit in support of requests for avoidance.

Section 606.25 Waiver of and substitution for additional tax credit reduction.

Section 606.25 describes the requirements which a State must meet in order for the additional tax credit reduction applicable under subparagraph (C) of section 3302(c)(2) of the FUTA to be waived and the additional credit applicable under subparagraph (B) to be substituted. The waiver may be granted if a State has taken no action to reduce the net solvency of its UC system during the 12-month period ending on September 30 of the year for which the waiver would be applicable, i.e., meets section 3302(f)(2)(B) of FUTA (see paragraph (b) under § 606.20 above). However, the tax credit reduction imposed by section 3302(c)(2)(B) of FUTA, additional tax credit reduction for the third and fourth years, is substituted.

Section 606.26 Application for waiver and substitution.

Section 606.26 prescribes the application procedures to be used by States in applying for waiver and substitution of additional tax credit reduction,

Subpart D—Interest on Advances.

Section 606.30 Interest rates on advances.

Section 606.30 prescribes the interest rate which is imposed, under most conditions, on advances to States under Title XII of the Social Security Act; the maximum rate which can be imposed is 10 percent

Section 606.31 Due dates for payment of interest. [Reserved]

Section 606.32 Types of advances subject to interest.

Section 606.32 describes which advances are subject to the imposition of interest. Subsections (b)(2) and (b)(3)(A) of section 1202 of the SSA provide that all advances received by a State between January 1 and September 30 and repaid in full prior to October 1 of the same calendar year (referred to as cash flow loans) are not subject to interest charges unless additional loans are obtained by the State after September 30, but before the end of the same calendar year. If an additional loan is obtained after September 30 and within the same calendar year, interest on loans prior to October 1 of the calendar year is due and payable the day after that day on which first additional borrowing occurs.

Section 606.33 No payment of interest from unemployment fund. [Reserved]

Section 606.34 Reports of interest payable. [Reserved]

Section 606.35 Order of application of repayments. [Reserved]

Subpart E—Relief from Interest Payment

Section 606.40 May/September delay.

Section 606.40 explains the conditions under which a State may delay payment of interest on advances made during specific months. Subsection (b)((3)(B) of section 1202 of the Social Security Act (SSA) allows a State to delay payment of interest on advances made during the months May through September until no later than the last day of the next calendar year. A State may, at its option, pay the interest on such advances earlier than the due date. Interest will accrue on the delayed interest payment as through it were, and in the same manner as, an advance made on the day when payment of the interest otherwise would have been due (prior to October 1).

Section 606.41 High unemployment deferral.

Section 606.41 describes the unemployment conditions under which a State may defer a portion of interest otherwise due. Subsection (b)(3)(C) of section 1202 of the SSA allows a State with high unemployment to defer payment of, and extend the payment for, 75 percent of interest charges due prior to October 1. The State must pay one-third of the deferred amount in each of the three years following the fiscal year for which it is due. To qualify for this deferral and extension of the payment period, the State insured unemployment rate (IUR), as determined for purposes of the Federal-State Extended Unemployment Compensation Act of 1970, must have equaled or exceeded 7.5 percent during the first six months of the preceding calendar year. Interest will not be charged on the interest for which payment is deferred.

Section 606.42 High unemployment dalay.

Section 606.42 describes the unemployment conditions under which a State may delay payment of interest otherwise due. Subsection (b)(9) of section 1202 of the SSA allows a State to delay not in excess of nine months the payment of interest due prior to October 1 of any calendar year during which the average total unemployment rate (TUR) in the State was 13.5 percent or higher. The average total unemployment rate for a State is computed using the 12-month period for which the most recent information is available prior to the month in which the interest is due. Interest will not be charged against interest for which payment is delayed. Any interest delayed is not subject to either further delays or deferrals: the interest is due and payable prior to July 1 of the following year.

Section 606.43 Maintenance of solvency efforts.

While legislative-action interest deferrals are no longer available, States must maintain their solvency effort with respect to interest deferrals granted in 1983, 1984, and 1985. Failure to do so will result in the State being reguired to make immediate payment (prior to October 1 of the year under consideration) of all deferred interest. Accordingly, in order to receive continued relief for such deferrals, States must certify by July 1 of each subsequent year in the deferral period (through the third year after the deferral was initially approved) that no action has been taken to reduce solvency effort. Section 606.43 prescribes the method for determining if solvency effort has been maintained and the process for applying for maintenance.

Section 606.41 Notification of determinations.

Section 606.41 explains the procedures for notifying States of determinations with respect to relief from interest payment.

Drafting Information

This document was prepared under the direction and control of the DIrector of the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: (202) 535–0600 (this is not a toll-free number).

Classification—Executive Order 12291

The proposed rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is requried.

Paperwork Reduction Act

A request to revise the approval of the information collection requirements contained in these regulations has been submitted to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The data collection is currently approved under OMB No. 1205–0205, expiring September 30, 1990.

Regulatory Flexibility Act

The Department believes that this proposed rule will have no "significant economic impact on a substantial number of small entities" within the meaning of 5 U.S.C. 605(b), because this rule directly affects only States and States are not "small entities" as that term is defined in 5 U.S.C. 601. The Secretary of Labor has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

List of Subjects in 20 CFR Part 606

Labor, Unemployment compensation.

Catalogue of Federal Domestic Assistance Number

This program is listed in the Catalogue of Federal Domestic Assistance as No. 17.225, Unemployment Insurance.

Words of Issuance

For the reasons set out in the preamble, new Part 606 of Title 20 of the Code of Federal Regulations is proposed as set forth below.

Signed at Washington, DC, on October 21 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

PART 606—ADVANCES TO STATES AND REPAYMENT OF ADVANCES IN THE FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM

Subpart A—General

Sec.

Subpart B—Tax Credit Reduction [Reserved]

Subpart C—Relief From Tax Credit Reduction

Subpart D—Interest on Advances

Subpart E—Relief From Interest Payment

Authority: 42 U.S.C. 1102; 26 U.S.C. 7805; Secretary's Order No. 4–75 (40 FR 18515).

Subpart A—General

§ 606.1 Purpose and scope.

(a) *Cap on tax credit reduction.* The regulations in this Part are issued to implement the amendment to section 3302 of the Federal Unemployment Tax Act contained in subsection (f) thereof enacted in section 2406 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35; 95 Stat. 876) with respect to a limitation (cap) on tax credit reduction otherwise applicable under section 3302(c).

(b) *Avoidance and waiver of tax credit reduction.* These regulations also are issued to implement the amendments to section 3302 contained in subsections (g) and (c)(2)(C) thereof enacted under sections 272 and 273 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248; 96 Stat. 556–557) with respect to avoidance and waiver of tax credit reduction otherwise applicable under section 3302(c).

(c) *Imposition of interest on loans.* These regulations also are issued to implement the amendment to section 1202 of the Social Security Act contained in subsection (b) thereof enacted in section 2407 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35; 95 Stat. 879–880) with respect to the imposition of interest on loans and loans not subject to interest charges.

(d) *May/September delay of interest payment.* These regulations also are issued to implement the amendment to section 1202 of the Social Security Act contained in subsection (b) thereof enacted in section 2407(a) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35; 95 Stat. 879) with respect to delay of interest payment on advances made in May through September.

(e) *High unemployment deferral of interest payment.* These regulations also are issued to implement the amendment to section 1202 of the Social Security Act contained in subsection (b) thereof enacted in section 274 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248; 96 Stat. 557–558) with respect to deferral of the interest payment otherwise due when the State meets certain high unemployment conditions.

(f) *High unemployment deferral of interest payment.* These regulations also are issued to implement the amendment to section 1202 of the Social Security Act contained in subsection (b) thereof enacted in section 511(a) of the Social Security Amendments of 1983 (Pub. L. 98–21; 97 Stat. 144–146) with respect to delay of the interest payment otherwise due when the State meets certain high unemployment conditions.

(g) *Maintenance of solvency.* These regulations also are issued to implement the amendment to section 1202 of the Social Security Act contained in subsection (b) thereof enacted in section 511(a) of the Social Security Amendments of 1983 (Pub. L. 98–21; 97 Stat. 144–145) with respect to maintenance of solvency for legislative-action deferrals previously approved.

§ 606.2 Total credits allowable.

The total credits allowed to an employer subject to the tax imposed by section 3301 of the Federal Unemployment Tax Act shall not exceed 5.4 percent with respect to taxable years beginning after December 31, 1984.

§ 606.3 Definitions.

For the purposes of the Acts cited and this Part—(a)(1) "1981 Act" means the Omnibus Budget Reconciliation Act of 1981, and sections 2406 and 2407 thereof (Pub. L. 97–35; Stat. 876–880), approved August 13, 1981.

(2) "1982 Act" means the Tax Equity and Fiscal Responsibility Act of 1982 and sections 272, 273, and 274 thereof (Pub. L. 97–248; 96 Stat. 556–558), approved September 3, 1982.

(3) "1983 Act" means the Social Security Amendments of 1983, and section 511 thereof (Pub. L. 98–21; 97 Stat. 144–146), approved April 20, 1983.

(b) "Advance" means a transfer of funds to a State unemployment fund, for the purpose of paying unemployment compensation, from the Federal unemployment account in the Unemployment Trust Fund.

(c) "Benefit-cost ratio" for cap purposes for a calendar year is the percentage obtained by dividing—

(1) The total sum of compensation paid (100 percent of regular and additional compensation paid, and 50 percent of compensation paid which is sharable compensation under section 204 of the Federal-State Extended Compensation Act of 1970, but excluding any such compensation which is attributable to services performed for a reimbursing employer) under the State law during such calendar year, and

(2) Any interest paid during such calendar year on any advance, by

(3) The total amount of remuneration subject to contributions under the State law with respect to such calendar year (determined without regard to any limitation on the amount of remuneration subject to contribution under the State law).

If any percentage determined by this computation is not a multiple of 0.1 percent, such percentage shall be reduced to the nearest multiple of 0.1 percent.

(d) "Contributions" means payments required by a State law to be made into an umemployment fund by any person

on account of having individuals in his employ, to the extent that such payments are made by him without being deducted or deductible from the remuneration of individuals in his employ.

(e) "Federal unemployment tax" means the excise tax imposed under section 3301 of the Federal Unemployment Tax Act on employers with respect to having individuals in their employ.

(f) "Fiscal year" means the Federal fiscal year which begins on October 1 of a year and ends on September 30 of the next succeeding year.

(g) "FUTA" refers to the Federal Unemployment Tax Act, 26 U.S.C. 3301–3311.

(h) "State unemployment fund" or "unemployment fund" means a special fund established under a State law for the payment of unemployment compensation to unemployed individuals, and which is an "unemployment fund" as defined in section 3306(f) of the Federal Unemployment Tax Act.

(i) "Taxable year" means the calendar year.

(j) "Unemployment tax rate" means, for any taxable year and with respect to any State, the percentage obtained by dividing the total amount of contributions paid into the State unemployment fund with repsect to such taxable year by the total amount of remuneration subject to contributions under the State law with respect to such taxable year (determined without regard to any limitation on the amount or remuneration subject to contribution under the State law).

(k) "Wages, taxable" means wages subject to contributions under a State law.

(l) "Wages, total" means total remuneration subject to contributions under the State law with respect to such taxable year (determined without regard to any limitation on the amount of remuneration subject to contribution under the State law).

§ 606.4 Redelegation of authority.

(a) *Redelegation to UIS Director.* The Director, Unemployment Insurance Service (hereinafter "UIS Director"), is redelegated authority to make the determinations required under this part. This redelegation is contained in Employment and Training Order No. 1–84, published in the **Federal Register** on November 14, 1983 (48 FR 51870).

(b) *Delegation by Governor.* The Governor of a State, as used in this part, refers to the highest executive official of a State. Wherever in this part an action is required by or of the Governor of a State, such action may be taken by the Governor or may be taken by a delegation of the Governor if the Department is furnished appropriate proof of an authoritative delegation of authority.

§ 606.5 Verification of estimates and review of determinations.

The Department of Labor (hereinafter "Department") shall verify all information and data provided by a State under this part, and the State shall comply with such provisions as the Department considers necessary to assure the correctness and verification of such information and data. The State agency of a State affected by a determination made by the UIS Director under this part may seek review of such determination by a higher level official of the Employment and Training Administration.

§ 606.6 Information, reports, and studies.

A State agency shall furnish to the Secretary of Labor such information and reports and conduct such studies as the Secretary determines are necessary or appropriate for carrying out the purposes of this part, including any additional information or data the UIS Director may require for the purposes of making determinations under Subparts C and E of this part.

Subpart B—Tax Credit Reduction [Reserved]

Subpart C—Relief from Tax Credit Reduction

§ 606.20 Cap on tax credit reduction.

(a) *Applicability.* Subsection (f) of section 3302 of FUTA, added by section 2406 of the 1981 Act, provides a limitation (cap) on the incremental reduction of tax credits by reason of an outstanding balance of advances if the UIS Director determines on or before November 10 of a taxable year that—

(1) No action was taken by the State during the 12-month period ending on September 30 of such taxable year which has resulted, or will result, in a reduction in the State's unemployment tax effort, as defined in § 606.21(a) of this subpart.

(2) No action was taken by the State during the 12-month period ending on September 30 of such taxable year which has resulted, or will result, in a net decrease in solvency of the State unemployment compensation system, as defined in § 606.21(b) of this subpart.

(3) The State unemployment tax rate, as defined in § 606.3(j) of this part, for the taxable year equals or exceeds the average benefit-cost ratio, as defined in § 606.3(c) of this part, for the calendar years in the five-calendar year period ending with the calendar year immediately preceding the taxable year for which the cap is requested, under the rules specified in § 606.21(c) and (d) of this subpart, and

(4) The outstanding balance of advances to the State on September 30 of the taxable year was not greater than the outstanding balance of advances to the State on September 30 of the third preceding taxable year.

(b) *Maximum tax credit reduction.* If a State qualifies for a cap, the maximum tax credit reduction for the taxable year shall not exceed 0.6 percent or, if higher, the tax credit reduciton that was in effect for the taxable year preceding the taxable year for which the cap is requested.

(c) *Year not taken into account.* If a State qualifies for a cap for any year, the year and January 1 of the year to which the cap applies will not be taken into account for purposes of determining reduction of tax credits for subsequent taxable years.

(d) *Partial caps.* Partial caps obtained under subsection (f)(8), added to section 3302 of FUTA by section 512 of the 1983 Act, are no longer available. Nevertheless, partial cap credits earned will be taken into account for purposes of determining reduction of tax credits for subsequent taxable years within the same borrowing cycle. The year to which the partial cap applied will be taken into account for purposes of determining reduction of tax credits for subsequent taxable years.

§ 606.21 Criteria for cap.

(a) *Reduction in unemployment tax effort.* For purposes of paragraph (a)(1) of § 606.20, there will be deemed to be a reduction in a State's unemployment tax effort with respect to a taxable year if any action is or was taken (legislative, judicial, or administrative) that is effective during the 12-month period ending on September 30 of such taxable year which has resulted in or will result in a reduction of the amount of contributions paid or payable or the amounts that were or would have been paid but for such action. Actions that will be deemed a reduction in tax effort include, but are not limited to, a reduction in the taxable wage base, the tax rate schedule, tax rates, or taxes payable (including surtaxes) that would not have gone into effect but for the legislative, judicial, or administative action taken. Notwithstanding the foregoing criterion, a reduction in unemployment tax effort resulting from any provision of the State law enacted prior to August 13, 1981, will not be

deemed disqualifying for a cap on reduction of tax credits.

(b) *Net decrease in solvency.* For purposes of paragraph (a)(2) of § 606.20, there will be deemed to be a net decrease in the solvency of the State's unemployment compensation system if any action is or was taken (legislative, judicial, or administrative) that is effective during the 12-month period ending on September 30 of such taxable year which has resulted in or will result in a net decrease in solvency; i.e., an increase in benefits without at least an equal increase in taxes, or a decrease in taxes without at least an equal decrease in benefits. Notwithstanding the foregoing criterion, a decrease in solvency resulting from any provision of the State law enacted prior to August 13, 1981, will not be deemed disqualifying for a cap on reduction of tax credits.

(c) *State unemployment tax rate.* For purposes of paragraph (a)(3) of § 606.20, the State unemployment tax rate is defined in § 606.3(j) of this Part. If such percentage is not a multiple of 0.1 percent, the percentage shall remain unrounded.

(d) *State five-year average benefit cost ratio.* For purposes of paragraph (a)(3) of § 606.20, the average benefit cost ratio for the five preceding calendar years is the percentage determined by dividing the sum of the benefit cost ratios for the five years by five. If such percentage is not a multiple of 0.1 percent, the percentage shall remain unrounded.

§ 606.22 Application for cap.

(a) *Application.* The Governor of the State shall make application, addressed to the Secretary of Labor, no later than July 1 of a taxable year with respect to which a State requests a cap on tax credit reduction. The Governor is required to notify the Department on or before October 15 of such taxable year of any action occurring after the date of the initial application and effective prior to October 1 of such year that would impact upon the State's application. The UIS Director will make a determination on the request on or before November 10 of such taxable year, will notify the Secretary of the Treasury of such determination, and will cause notice of such determination to be published in the **Federal Register.**

(b) *Anticipated impact statement.* In support of the application by the governor, there shall be submitted for the purposes of the criteria described in § 606.20(a) of this Subpart a description of all statutory provisions enacted or amended, regulations adopted or revised, administrative policies and procedures adopted or revised, and judicial decisions effecting changes in contributions or benefits paid, effective during the 12-month period ending on September 30 of the taxable year for which a cap on tax credit reduction is requested, and an anticipated impact statement (AIS) for each program action in the following respects—

(1) The estimated dollar effect of each program action upon expenditures for compensation from the State unemployment fund and for the amounts of contributions paid or payable, including the effect of interaction among program actions.

(2) If a program action has no such dollar effect, an explanation of why there is or will be no such effect,

(3) A description of assumptions and methodology used and the basis for the financial estimate of the impact of each program action described in paragraphs (b) (1) and (2) of this section, and

(4) A comparison of the program actions described in paragraphs (b) (1) and (2) of the section with the program actions prior to the Federal fiscal year, as defined in § 606.3(f).

(c) *State contact person.* The Department may request additional information or clarification of information submitted bearing upon an application for a cap on tax credit reduction. To expedite requests for such information, the name and telephone number of an appropriate State official shall be included in the application by the Governor.

(d) *Unemployment tax rate.* With respect to the unemployment tax rate criterion described in § 606.20(a)(3), the application shall include an estimate for the taxable year with respect to which a cap on tax credit reduction is requested and actual data for the prior two years as follows:

(1) The amount of taxable wages as defined in § 603.3(k) of this part,

(2) The amount of total wages as defined in § 603.3(l) of this part, and

(3) The estimated distribution of taxable wages, as defined in § 603.3(k) of this part, by tax rate under the State law.

(e) *Benefit cost ratio.* With respect to the benefit cost ratio criterion described in § 606.20(a)(3) the application shall include for the five taxable years prior to the taxable year for which a cap on tax credit reduction is requested as follows:

(1) For each year the amount of regular and additional benefits paid which are attributable to contributing employers,

(2) For each year 50 percent of the total amount of sharable compensation paid which is attributable to contributing employers,

(3) For each year the amount of interest actually paid on advances made to the State under Title XII of the Social Security Act, and

(4) For each year the amount of total wages as defined in § 606.3(l) of this part.

(f) *Documentation required.* Copies of the sources of or authority for each program action described in paragraph (b) of this section shall be submitted with each application for a cap on tax credit reduction. In addition, a notation shall be made on each AIS of where all figures referred to are contained in reports required by the Department.

§ 606.23 Avoidance of tax credit reduction.

(a) *Applicability.* Subsection (g) of section 3302 of FUTA, added by section 272 of the 1982 Act, allows a State to avoid a tax credit reduction for a year by meeting the three requirements of subsection (g). These requirements are met if the UIS Director determines that—

(1) Advances were repaid by the State during the one-year period ending on November 9 of the taxable year in an amount not less than the sum of—

(i) The potential additional taxes (as estimated by the UIS Director) that would be payable by the State's employers if paragraph (2) of section 3302(c) of the FUTA were applied for such taxable year (as determined with regard to the cap on tax credit reduction for which the State qualifies under section 3302(f) of the FUTA and Subpart C of this part with respect to such taxable year), and

(ii) Any advances made to such State during such one-year period under Title XII of the Social Security Act,

(2) There will be adequate funds in the State unemployment fund (as estimated by the UIS Director) sufficient to pay all benefits when due and payable under the State law during the three-month period beginning on November 1 of such taxable year without receiving any advance under Title XII of the Social Security Act, and

(3) There is a net increase (as determined by the UIS Director) in the solvency of the State unemployment compensation system for the taxable year and such net increase equals or exceeds the potential additional taxes for each taxable year as determined under paragraph (a)(1)(i) of this section.

(b) *Net increase in solvency.* (1) The net increase in solvency as determined under paragraph (a)(3) of this section must be attributable to changes

(legislative, judicial, or administrative) made in the State law after the later of—

(i) September 3, 1982, or

(ii) The date on which the first advance in the current borrowing cycle (consecutive January firsts on which the State has an outstanding balance of loans) is taken into account in determining the amount of the potential additional taxes.

(2) The UIS Director shall determine the net increase in solvency by first estimating the difference between revenue receipts and benefit outlays under the law in effect for the year for which avoidance is requested, as if the relevant changes in State law referred to in paragraph (b)(1) of this section were not in effect for such year. The UIS Director shall then estimate the difference between revenue receipts and benefit outlays under the law in effect for the year for which the avoidance is requested, taking into account the relevant changes in State law referred to in paragraph (b)(1) of this section. The amount (if any) by which the second estimated difference exceeds the first estimated difference shall constitute the net increase in solvency for the purposes of this section.

(c) *Year taken into account.* If a State qualifies for avoidance for any year, that year and January 1 of that year to which the avoidance applies will be taken into account for purposes of determining reduction of tax credits for subsequent taxable years.

§ 606.24 Application for avoidance.

(a) *Application.* (1) The Governor of the State shall make application, addressed to the Secetary of Labor, no later than July 1 of a taxable year with respect to which a State requests avoidance of tax credit reduction. The Governor is required to notify the Department on or before October 15 of such taxable year of any action impacting upon the State's application occurring subsequent to the date of the initial application and on or before November 10.

(2) The UIS Director will make a determination on the request as of November 10 of such taxable year, will notify the Secretary of the Treasury of such determination, and will cause notice of such determination to be published in the Federal Register.

(b) *Information.* (1) The application shall include a statement of the amount of advances repaid and to be repaid during the one-year period ending on November 9 of the taxable year for which avoidance is requested. If the amount repaid as of the date of the application is less than the amount required to satisfy the provisions of § 606.23(a)(1), the Governor should provide a report later of any additional such repayments made in the remainder of the one-year period ending on November 9 of the taxable year.

(2) The application also shall include estimates of revenue receipts, benefit outlays, and end-of-month fund balance for each month in the period beginning with September of the taxable year for which avoidance is requested through the subsequent January. Actual data for the comparable period of the preceding year also shall be included in the application.

(3) The application also shall include a description of State law changes, effective for the taxable year for which the avoidance is requested, which resulted in a net increase in the solvency of the State unemployment compensation system, and documentation which supports the State's estimate of the net increase in solvency for such taxable year.

§ 606.25 Waiver of and substitution for additional tax credit reduction.

A provision of subsection (c)(2) of section 3302 of FUTA, added by section 273 of the 1982 Act, allows the additional tax credit reduction applicable under subparagraph (C), beginning with the fifth consecutive year of a balance of outstanding advances, to be waived and the additional tax credit reduction applicable under subparagraph (B) to be substituted. The waiver and substitution are granted if the UIS Director determines that the State has taken no action, effective during the 12-month period ending on September 30 of the year for which the waiver and substitution are requested, which has resulted or will result in a net decrease in the solvency of the State unemployment compensation system as determined for the purposes of § 606.21(b) of this Subpart.

§ 606.26 Application for waiver and substitution.

A State need not apply for the waiver and substitution provided in § 606.25 if it is applying for, with respect to the same taxable year, a cap on tax credit reduction under § 606.22 or for avoidance of tax credit reduction under § 606.24. Otherwise, the Governor of the State should address to the Secretary of Labor a request for waiver and substitution containing information in support thereof as provided in § 606.21(b) of this Part no later than July 1 of the taxable year for which the waiver and substitution are requested. The Governor is required to notify the Department on or before October 15 of such taxable year of action occurring after the date of the initial application and effective prior to October 1 of such year that would impact upon the State's application. The UIS Director will make a determination thereon on or before November 10 of the taxable year, will notify the Secretary of the Treasury of the resulting tax credit reduction to be applied, and will cause notice of the result of such determination to be published in the **Federal Register.**

Subpart D—Interest on Advances

§ 606.30 Interest rates on advances.

Advances made to States pursuant to Title XII of the Social Security Act on or after April 1, 1982, shall be subject to interest under conditions specified in § 606.31. The interest rate for a calendar year, when applicable, will be the lesser of 10 percent or the rate paid by the Secretary of the Treasury on State balances in their unemployment funds for the last quarter of the calendar year immediately preceding the calendar year in which interest is assessed.

§ 606.31 Due dates for payment of interest. [Reserved]

§ 606.32 Types of advances subject to interest.

(a) *Payment of interest.* Except as otherwise provided in paragraph (b) of this section each state shall pay interest on any advance made to such State under Title XII of the Social Security Act.

(b) *Cash flow loans.* Advances repaid in full prior to October 1 of the calendar year in which made are deemed cash flow loans and shall be free of interest; provided, that the State does not receive an additional advance after September 30 of the same calendar year. If such additional advance is received by the State, interest on the completely repaid earlier advance(s) shall be due and payable not later than the day following the date of the first such additional advance. The administrator of the State agency shall notify the Secretary of Labor no later than September 10 of those loans deemed to be cash flow loans and not subject to interest. This notification shall include the date and amount of each loan made January through September and a copy of documentation sent to the Secretary of the Treasury requesting loan repayment transfer(s) from the State's account in the Unemployment Trust Fund to the Federal unemployment account in such Fund.

§ 606.33 No payment of interest from unemployment fund. [Reserved]

§ 606.34 Reports of interest payable. [Reserved]

§ 606.35 Order of application for repayments. [Reserved]

Subpart E—Relief from Interest Payment

§ 606.40 May/September delay.

Subsection (b)(3)(B), added to section 1202 of the Social Security Act by section 2407(a) of the 1981 Act permits a State to delay payment of interest accrued on advances made during the last five months of the Federal fiscal year (May, June, July, August, and September) to no later than December 31 of the next succeeding calendar year. If the payment is delayed. Interest on the delayed payment will accrue from the normal due date (prior to October 1) and in the same manner as if the interest due on the advance(s) was an advance made on such due date. The Governor of a State which has decided to delay such interest payment shall notify the Secretary of Labor no later than September 1 of the year with respect to which the delay is applicable.

§ 606.41 High unemployment deferral.

(a) *Applicability.* Subsection (b)(3)(C), added to section 1202 of the Social Security Act by section 274 of the 1982 Act, permits a State to defer payment of, and extend the payment for, 75 percent of interest charges otherwise due prior to October 1 of a year if the UIS Director determines that high unemployment conditions existed in the State.

(b) *High unemployment defined.* For purposes of this section, high unemployment conditions existed in the State if the State's rate of insured unemployment (as determined for purposes of 20 CFR 615.12) under the State law with respect to the period consisting of the first six months of the preceding calendar year equalled or exceeded 7.5 percent; this means that in weeks 1 through 26 of such preceding calendar year, the rate of insured unemployment reported by the State and accepted by the Department under 20 CFR Part 615 may not have been less than 7.5 percent.

(c) *Schedule of deferred payments.* The State must pay prior to October 1 one-fourth of the interest due, and must pay a minimum of one-third of the deferred amount prior to October 1 in each of the three years following the year in which deferral was granted; at the State's option payment of deferred interest may be accelerated.

(d) *Related criteria.* Timely payment of one-fourth of the interest due prior to October 1 is a precondition to obtaining deferral of payment of 75 percent of the interest due. No interest shall accrue on such deferred interest.

(e) *Application for deferral and determination.* The Governor of a State which has decided to request deferral of such interest shall apply to the Secretary of labor no later than July 1 of the taxable year for which the deferral is requested. The UIS Director will determine whether deferral is or is not granted on the basis of the Department's records of reports of the rates of insured unemployment and information obtained from the Department of the Treasury as to the timely and full payment of one-fourth of the interest due.

§ 606.42 High unemployment delay.

(a) *Applicability.* Paragraph (9), added to section 1202(b) of the Social Security Act, by section 511(a) of the 1983 Act, permits a State to delay for a period not exceeding nine months the interest payment due prior to October 1, if, for the most recent 12-month period prior to such October 1 for which data are available, the State had an average total unemployment rate of 13.5 percent of greater.

(b) *Delayed due date.* An interest payment delayed under paragraph (9) must be paid in full not later than the last official Federal business day prior to the following July 1: at the State's option payment of delayed interest may be accelerated. No interest shall accrue on such delayed payment.

(c) *Application for delay in payment and determination.* The Governor of a State which has decided to request delay in payment of interest under paragraph (9) shall apply to the Secretary of labor no later than July 1 of the taxable year for which the delay is requested. The UIS Director will determine whether delay is or is not granted on the basis of total unemployment rate data published by the Department's Bureau of labor Statistics.

§ 606.43 Maintenance of solvency effort.

(a) *Applicability.* Legislative-action interest deferrals obtained under subsection (b)(8)(A)–(C), added to section 1202 of the Social Security Act by section 511(a) of the 1983 Act, are no longer available. Nevertheless, States must maintain their solvency effort with respect to any such deferrals approved in 1983, 1984, and 1985 in order for the deferral to continue to apply in each subsequent year of deferral.

(b) *Determination regarding maintenance of solvency effort.* The UIS Director shall determine if there is a net reduction in solvency effort by first estimating the difference between revenue receipts and benefit outlays under the law in effect for the 12-month period ending on September 30 of the year prior to the year for which the continuation of deferral is requested as if the law were in effect in the year for which the continuation of deferral is requested. The UIS Director shall then estimate the difference between revenue receipts and benefit outlays under the law in effect in the 12-month period ending on September 30 of the year for which the continuation of deferral is requested. If the amount of the second estimated difference is equal to or greater than the first estimated difference, the State will be deemed to have maintained its solvency effort, but if less, then a reduction in solvency effort will be deemed to have occurred.

(c) *Effect of determination.* (1) If the UIS Director determines that a State has maintained its solvency effort, continuation of deferral will be granted, and the State will be required to timely pay the deferred interest payable prior to October 1 of the year with respect to which such determination is made.

(2) If the UIS Director determines that a State failed to maintain its solvency effort, all deferred interest shall be due and payable prior to October 1 of the year with respect to which such determination is made.

(d) *Application and information.* (1) The Governor of a State which has decided to request continuation of a previously approved deferral of interest payments shall apply to the Secretary of labor no later than July 1 of the year for which continuation is requested. The governor is required to notify the Department on or before September 1 of such taxable year of any action impacting upon the State's application occurring subsequent to the date of the initial application and on or before September 30.

(2) In support of the application by the Governor, there shall be submitted for the purposes of the estimates required in paragraph (b) of this section documentation as specified in § 606.22(b)(1)–(4), (c) and (f) of this part and bearing upon the application for continuation of deferral.

§ 606.44 Notification of determinations.

The UIS Director will make determinations under §§ 606.41, 606.42, and 606.43 on or before September 10 of the taxable year, will promptly notify the appropriate Governors and the

Secretary of the Treasury of such determinations, and will cause notice of such determinations to be published in the **Federal Register.** The UIS Director also will inform the Secretary of the Treasury and cause notice to be published in the **Federal Register** of determinations with respect to delayed payment of interest as provided in § 606.40.

[FR Doc. 87-24777 Filed 10-27-87; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 840 and 842

Extension of Public Comment Period; Surface Coal Mining and Reclamation Operations; Initial and Permanent Regulatory Programs; Abandoned Sites

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; Extension of public comment period.

SUMMARY: On August 28, 1987, the Office of Surface Mining Reclamation and Enforcement (OSMRE) published a proposed rule which would amend its regulations to define "abandoned site" and to change the inspection frequency for such sites. The comment period closes on November 6, 1987. OSMRE is now extending the comment period for the proposed rule until November 30, 1987.

DATE: The comment period on the proposed rule is extended until November 30, 1987.

ADDRESSES: Written comments may be mailed to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131-L, 1951 Constitution Avenue, NW., Washington, DC 20240; or hand-delivered to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L St., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: George Stone, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240: Telephone: 202-343-4295 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: OSMRE previously published the proposed rule on August 28, 1987. 52 FR 32758. The comment period is open until November 6, 1987. OSMRE received a request to extend the comment period and is hereby granting the request by extending the comment period until November 30 1987.

The proposed rule would amend OSMRE's regulations to define an "abandoned site" and to change the inspection frequency for such sites. These revisions would enable the regulatory authorities to eliminate numerous ineffective inspections, and thus transfer inspectors to operations where enforcement would achieve the intended results.

The proposed rule would also change the inspection frequency for abandoned sites to "as necessary to monitor for changes of environmental conditions or operational status" at the site. For further information, consult the preamble to the proposed rule, cited above.

Date: October 22, 1987.

Jed D. Christensen,

Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 87-24909 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 913

Permanent State Regulatory Program for Illinois

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for a public hearing on the substantive adequacy of amendments, submitted by Illinois as a modification to the State's permanent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The proposed amendments are in response to a letter dated June 9, 1987 from OSMRE notifying Illinois or required program changes resulting from Federal regulation changes pertaining to historic properties.

This notice sets forth the times and locations that the proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments and the procedures that will be followed for the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m. on November 27, 1987 if requested, a public hearing on the proposed amendment is scheduled for 1:00 p.m. November 23, 1987 and requests to present oral testimony at the hearing must be received on or before 4:00 p.m. November 12, 1987.

ADDRESSES: Written comments and requests to testify at the hearing should be directed to the Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, Room 20, 600 East Monroe Street, Springfield, IL 62701; Telephone (217) 492-4495. If a hearing is requested it will be held in Room 17 at the same address.

Copies of the Illinois program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the following locations during normal business hours Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Room 5131, 1100 L Street, NW., Washington, DC 20240.

Office of Surface Mining Reclamation and Enforcement, Eastern Field Operations, Ten Parkway Center, Pittsburgh, PA 15220

Office of Surface Mining Reclamation and Enforcement, Springfield Field Office, Room 20, 600 E. Monroe Street, Springfield, IL 62701

Illinois Department of Mines and Minerals, 227 South 7th Street, Room 201, Springfield, IL 62706

Each requester may receive, free of charge, one single copy of the proposed amendments by contacting the OSMRE Springfield Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. James Fulton, Director, Springfield Field Office, Office of Surface Mining and Reclamation and Enforcement, 600 E. Monroe Street, Room 20, Springfield, Illinois 62701; Telephone (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982. Information pertinent to the general background, revisions, modifications, and amendments to the Illinois program submissions, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Illinois program can be found in the June 1, 1982 **Federal Register** (47 FR 23883). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 913.11 and 913.15.

II. Discussion of the Proposed Amendments

By letter dated September 16, 1987 (Administrative Record No. IL-1058), the

Illinois Department of Mines and Minerals (IDMM) submitted proposed amendments concerning historic properties in response to changes in the Federal regulations. The proposed changes are briefly summarized below:

IDMM section 1761.11 sets forth an overview of areas where mining is prohibited or limited. The proposed amendments to Section 1761.11 intend to make IDMM's requirements consistent with the OSMRE counterpart regulation 30 CFR 761.11, by extending the Section 1761.11 prohibitions/limitations to privately owned places listed in the National Register of Historic Places.

Section 1761.12 describes the IDMM's procedures for determining if mining in an area should be prohibited or limited. The proposed amendments to section 1761.12 intend to make the IDMM's requirements consistent with the OSMRE counterpart regulation, 30 CFR 761.12 by extending the section 1761.12 prohibitions/limitations to privately owned places listed in the National Register of Historic Places.

Section 1772.12 set forth the permit requirements for exploration removing more than 250 tons of coal. The proposed amendments to section 1772.12 intend to make the IDMM's requirements consistent with the OSME counterpart regulation, 30 CFR 772.12 by requiring the applicant to provide, at the IDMM's request, other information regarding known or unknown historic or archeological resources. The proposed amendment makes it imperative that historic preservation/archeological surveys be conducted prior to application submission in order to avoid delays.

Section 1773.15 contains the requirements for the review of permit applications. The proposed amendments for section 1773.15 intend to make the IDMM's requirements consistent with the OSMRE counterpart regulation, 30 CFR 773.15 by requiring IDMM to make a finding that it has taken into account the effect of the proposed permitting action on properties listed or eligible for listing in the National Register of Historic Places.

Section 1779.12 sets forth the IDMM's requirements for general environmental resources information for surface mining permit applications. The proposed amendments to section 1779.12 intend to make IDMM's requirements consistent with the OSMRE counterpart regulation, 30 CFR 779.12 by permitting the IDMM to require the applicant to identify and evaluate important historic and archeological resources that may be eligible for listing on the National Register of Historic Places through collection of additional information conduct of field investigations or other appropriate analyses consistent with the National Historic Preservation Act (NHPA). The proposed amendment make conducting historic preservation/archeological surveys prior to submission of a permit application imperative in order to avoid delays in permit issuance.

Section 1780.31 describes the IDMM's requirements for the protection of public parks and historic places applicable to surface mines. The proposed amendments to section 1780.31 intend to make the IDMM's requirements consistent with the OSMRE counterpart regulation, 30 CFR 780.31 by requiring the applicant to prevent or minimize the impacts of proposed operations on privately owned places listed on the National Register of Historic Places and by allowing the IDMM to specify appropriate mitigation and treatment measures for places listed and eligible for Register listing.

Section 1783.12 sets forth the IDMM's requirements for general environmental resources information for underground mining permit applications. The proposed amendments to Section 1783.12 intend to make the IDMM's requirements consistent with the OSMRE counterpart regulation, 30 CFR 783.12 by permitting IDMM to require the applicant to identify and evaluate important historic and archeological resources that may be eligible for listing on the National Register of Historic Places through collection of additional information, conduct of field investigations or other appropriate analyses consistent with the NHPA. The proposed amendments make conducting historic preservation/archeological surveys prior to submission of a permit application imperative in order to avoid delays in permit issuance.

Section 1784.17 contains the IDMM's requirements for the protection of public parks and historic places applicable to underground mines. The proposed amendments to section 1784.17 intend to make the IDMM's requirements consistent with the OSMRE counterpart regulation, 30 CFR 784.17 by requiring the applicant to prevent or minimize the impacts of proposed operations on privately owned places listed on the National Register of Historic Places and by allowing the IDMM to specify appropriate mitigation and treatment measures for places listed and eligible for Register listing.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17, OSMRE is now seeking comments on whether the amendment proposed by IDMM satisfies the requirements of 30 CFR 732.15 for approval of State program amendments. Comments should specifically address whether the proposed amendments are in accordance with SMCRA and consistent with the Federal regulations. If the amendment are deemed adequate, they will become part of the Illinois program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than Springfield Illinois Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comments at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by the close of business November 12, 1987. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled.

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. A summary of the meeting will be included in the Administrative Record.

IV. Procedural Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirements to prepare a Regulatory

Impact Analysis, and regulatory review by OMB is not required.

The Department of the Interior has determined that this rule would not have a signficant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Rex L. Wilson,

Acting. Assistant Director Eastern Field Operations.

Date: October 14, 1987.

[FR Doc. 87-24969 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 80, 86 and 600

[AMS-FRL-3282-7]

Control of Gasoline and Alcohol Blends Volatility and Evaporative Emissions, and Refueling Emissions From New Motor Vehicles and Engines

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: This notice announces an extension of the public comment period on EPA's proposed regulation to control refueling emissions and the proposed regulation to control the volatility of gasoline and alcohol blends sold in the summertime. These proposals were both published in the **Federal Register** on August 19, 1987 (52 FR 31162 and 52 FR 31274).

DATE: The public comment period is being extended and will remain open until January 11, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Carlson, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313)-668-4270.

SUPPLEMENTARY INFORMATION: The notice of public hearing concerning these proposed rules was published in the **Federal Register** on September 3, 1987 (52 FR 33438). That notice specified that the public comment period would remain open until November 30, 1987. Subsequent to publication of the notice of public hearing EPA received requests from both the Motor Vehicle Manufacturers Association (MVMA) and the Automobile Importers of America (AIA) to extend the length of the public comment period. EPA has reviewed these requests in the light of the Agency's desire to assure the fullest possible opportunity for public participation. Given the scope of the proposed rules and the fact that the public hearing and comment period for both will run simultaneously, EPA has decided that it is appropriate to extend the comment period until January 11, 1988.

Date: October 21, 1987.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 87-24942 Filed 10-27-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-460, RM-5782]

Radio Broadcasting Services; Northport, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Northport Communications, which seeks the allotment of FM Channel 264A to Northport, Alabama, as that community's first local broadcast service.

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESS: Federal Communication Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Patricia A. Mahoney, Esq. and Frank R. Jazzo, Esq., Fletcher, Heald and Hildreth, 1225 Conn. Ave., Nw., Suite 400, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-460, adopted September 25, 1987, and released October 22, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments. See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-24855 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-459, RM-5738]

Radio Broadcasting Services; Garapan, Saipan

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Serafin M. Dela Cruz which proposes to allot Class C Channel 258 to Garapan, Saipan, as a second FM Service.

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Serafin M. Dela Cruz, P.O. Box 2632, Saipan, CM 96950.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-459, adopted September 30, 1987, and released October 22, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.145 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-24856 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-410; RM-5469, RM-5428, RM-5688 and RM-5792]

Radio Broadcasting Services; Columbia, Eldon, Centralia, Mountain Grove and Cabool, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; orders to show cause.

SUMMARY: This document is issued in response to a counterproposal filed by Southwest Communications, Inc., in MM Docket 86-410, requesting the substitution of Channel 224C2 for Channel 224A at Eldon, Missouri. Petitioner also requests the modification of Station KLDN(FM) to reflect the higher class channel. The channel can be allocated to Eldon provided channel substitutions are made at Mountain Grove, Station KLRS (Channel 293A for Channel 224A) and Cabool, Station KVVC (Channel 251A for Channel 292A). The Orders to Show Cause are directed at those two stations to show cause why their channels should not be changed to accommodate Station KLDN(FM)'s proposed upgrade. Comments will only be accepted from the Mountain Grove and Cabool stations as an opportunity for comments was previously given in response to the Public Notice of March 18, 1987 (Report No. 1649).

DATES: Comments must be filed on or before December 14, 1987, and reply comments on or before December 29, 1987.

ADDRESS: Tom L. Mason, President and General Manager, Radio Station KVVC(FM), KVVC Broadcasting, Inc., Box 514, Junction M and Business Route 60, Cabool, Missouri 65689; Larry D. Spence, President, Radio Station KLRS(FM), Communications Works, Inc., Route 4, Box 1360, Mountain Grove, Missouri 65711; and Martin R. Leader, Ann K. Ford, John J. McVeigh, Fisher, Wayland, Cooper and Leader, 1255—23rd Street, NW., Suite 800, Washington, DC 20037, Counsel for Southwest Communications, Inc.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Orders to Show Cause, MM Docket No. 86-410, adopted September 28, 1987, and released October 22, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Authority: 47 U.S.C. 154, 303.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-24854 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 30 and 31

Federal Acquisition Regulation (FAR); Mergers and Other Business Combinations

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of intent to develop a proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council invite public comment concerning the development of changes to FAR Parts 30 and 31 on the allowability of costs incident to mergers and other business combinations.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before December 28, 1987, to be considered in the formulation of a proposed rule. Please cite FAR Case 87-43 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Street NW., Room 4041, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION:

Background

The Defense Acquisition Regulatory and Civilian Agency Acquisition Councils have been reviewing the subject of business combinations, and particularly the allowability of costs resulting from such combinations. This review has been occasioned by the Councils' concern that existing regulations on certain aspects of this subject may not be adequate, as evidenced by recent litigation. Specifically, the Councils are considering whether, in circumstances where a Government contractor is acquired, the Government should recognize depreciation or cost of money flowing from asset write-ups that result if the "purchase method" is used to account for the business combination. Government representatives have expressed concern whether, in the

circumstances when a contract price will be negotiated based upon the contractor's cost, the Government should be at risk of paying higher prices simply because of a change in ownership of the supplier. Accordingly, the Councils will consider comments from interested parties regarding approaches the Councils might employ in dealing with this issue.

List of Subjects in 48 CFR Parts 30, and 31

Government procurement.

Dated: October 22, 1987.

Frank Van Lierde,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 87-24845 Filed 10-27-87; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 87-15; Notice 1]

Federal Motor Vehicle Safety Standards; Vehicle Classification

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice follows the NHTSA's granting of a petition from the Insurance Institute for Highway Safety, requesting the agency to redefine its classes of motor vehicles so that vehicles used primarily to transport passengers are not classified together with vehicles used primarily to transport cargo. The agency is publishing this document to request public comment on possible new approaches to motor vehicle classification for purposes of the Federal motor vehicle safety standards. The comments and other available information will be considered by the agency in determining whether to propose any changes in its vehicle type definitions.

DATES: Comment due date: Comments must be submitted by December 28, 1987. See Part IV of this Preamble for additional information on submitting comments.

ADDRESS: Comments should refer to the above docket number and notice number and be submitted to: Docket section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms Deborah Parker, NRM-011, National Highway Traffic Safety Administration, Room 5320, 400 Seventh Street, SW., Washington, DC 20590 (202 366-4931).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Statutory and Regulatory Framework

The National Traffic and Motor Vehicle Safety Act of 1966 (Safety Act, 15 U.S.C. 1381-1431) authorizes the National Highway Traffic Safety Administration (NHTSA or agency) to issue safety standards for new motor vehicles and new motor vehicle equipment. As promulgated by NHTSA, these safety standards establish minimum performance requirements for motor vehicles and items of motor vehicle equipment. Section 103(a) of the Safety Act requires each standard to be "practicable", to meet "the need for motor vehicle safety", and to be "stated in objective terms."

In addition, section 103(f) of the Safety Act requires the agency to consider whether the standard is "reasonable, practicable and appropriate for the *particular type* of motor vehicle or item of motor vehicle equipment for which it is prescribed" (emphasis added) and contributes to "carrying out the purposes of the Act." To aid it in developing safety standards, as well as in determining the applicability and appropriateness of a specific safety standard, the agency has established definitions for basic motor vehicle types. These definitions are contained in § 571.3 of the agency's regulations and are reprinted in Part IV.C. of this Preamble for easy reference. (All references in this notice to NHTSA's regulations are to sections or parts contained in Chapter V of Title 49 of the Code of Federal Regulations.)

The applicability section of each safety standard indicates the vehicle classifications to which the standard applies. It is the responsibility of each manufacturer to make the initial determination of a motor vehicle's type, consistent with the agency's definitions in § 571.3. In addition, NHTSA's certification requirements in Part 567 require the manufacturer to specify each vehicle's type and to certify that the vehicle complies with all of the motor vehicle safety standards applicable to that type. The agency subsequently may reexamine a manufacturer's classification of its vehicles if it appears that they have not been classified properly. Such reexaminations usually are done in the context of a compliance or enforcement proceeding.

The criteria in sections 103 (a) and (f) of the Safety Act also govern the agency in its making any determination to amend a standard, including revoking its applicability to a particular vehicle type. To amend or revoke a standard ordinarily would require a showing that the standard or a particular provision of the standard no longer meets the need for motor vehicle safety (or, perhaps, that it never did meet that need) or that it fails to meet one of the other criteria of section 103 (a) or (f)

II. Petition of the Insurance Institute for Highway Safety

The Insurance Institute for Highway Safety (IIHS or petitioner) petitioned NHTSA to begin rulemaking under the vehicle safety program to establish new safety definitions of motor vehicle types that are consistent with current manufacturing and marketing strategies and that are based on vehicle use.

Focusing on motor vehicles used for personal transportation, the petitioner states that the current vehicle classification system is outmoded, which results in safety standards being applied differently to vehicles that have substantially the same use. Specifically, IIHS notes that "light trucks and hybrids such as the so called 'minivans' " compete for the same market as passenger cars, but do not have to meet several important passenger car safety standards including the requirements for automatic occupant crash protection and those for head restraints, side door strength, roof crush resistance, and center mounted brake lights."

In explaining what it believes to be the genesis of this situation, IIHS summarizes the agency's initial safety standard rulemaking proceeding. The agency proposed (December 3, 1966; 31 FR 15212) two distinct vehicle types whose rationales were based on use and

encompassed the vast majority of vehicles on the road (passenger cars for transporting 10 persons or less and trucks for transporting property). In the final rule (February 3, 1967; 32 FR 2408), the agency adopted three vehicle types: two were based on use (cargo carrying trucks and person carrying passenger cars) and the third combined the passenger carrying use with the cargo carrying physical construction or special features for occasional off-road operation (multipurpose passenger vehicle or MPV).

IIHS argues that the current system is no longer appropriate for several reasons. First, the petitioner notes substantial increases in the production of light trucks and MPV's. Second, it also notes a shift in market share from passenger station wagons to minivans, which typically are classified as MPV's. Third, IIHS states that the distinctions between some types are being blurred by changes in design and use. IIHS points to an increasing similarity in some aspects of design between formerly very different vehicles. For example, many pickup trucks and MPV's are now much lighter. These lighter pickup trucks and MPV's are different in terms of structure and use from the pickup trucks and MPV's for which the classifications were originally created two decades ago. The petitioner says that many light pickup trucks and most passenger minivans are being marketed and used for personal transportation.

The petitioner describes several alleged "misclassifications" of vehicles—vehicles which the definition of MPV allows to be classified as MPV's which, in the petitioner's view, should be classified as passenger cars. One problem in classification occurs when it is difficult to determine whether a particular chassis is more in the nature of a car chassis or a truck chassis. Another classification problem may arise when the determination of a basic vehicle type is based on separate decisions. For example, the fact that a vehicle is a cargo van can be the basis for determining that the vehicle has a truck chassis; a passenger van built on this same chassis can be classified as an MPV, on the basis of the vehicle being built on a truck chassis. The result of these misclassifications, argues IIHS, is that the safety standards are not being applied to all vehicles to which they should be.

Finally, IIHS contends that the appropriate way to determine vehicle classification is by use. The petitioner proposes that the agency establish new definitions of vehicle types that are consistent with current manufacturing and marketing practices and that reflect the *use* of the vehicle, instead of design characteristics (e.g., body styles like van or pickup truck) which may or may not have any relevance to the actual purpose of the vehicle. A necessary corollary to this, according to the petitioner, is that the agency establish a timetable to extend the passenger car safety standards or appropriate equivalents to all vehicles sold primarily for personal transportation.

The agency granted IIHS, petition in a letter dated May 7, 1987.

III. History of the Vehicle Types and Definitions

Currently, there are six basic motor vehicle types for purposes of applying the safety standards: Bus, motorcycle, multipurpose passenger vehicle, passenger car, trailer and truck. (See Part IV.C. of this Preamble for definitions of all vehicle types.) The petition addresses possible problems affecting three of these types: Passenger car, multipurpose passenger vehicle, and truck. Accordingly, the agency is limiting the scope of this advance notice of proposed rulemaking to an examination of these three vehicle types.

When the National Traffic Safety Agency (NHTSA's predecessor) proposed the initial safety standards on December 3, 1966, it was operating under a statutory time deadline as well as a statutory directive to use existing safety standards. Many of the initial motor vehicle safety standards were taken from the General Services Administration, with the agency proposing five basic vehicle types—bus, motorcycle, passenger car, trailer and truck. A passenger car was defined as a motor vehicle designed to carry ten persons or less and a truck was defined as a vehicle designed, used, or maintained primarily for the transportation of property.

The February 3, 1967 final rule retained substantially the same definition for passenger car, but revised the definition of truck to a motor vehicle designed primarily for the transportation of property or special purpose equipment. In addition, the final rule added a new vehicle class, multipurpose passenger vehicle (MPV), defined as a motor vehicle designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.

The MPV definition combined the design elements of the passenger car vehicle type (designed to carry ten persons or less) with the structural characteristics of a truck (truck chassis or off road capabilities). The agency's intent was to avoid having to delay the implementation of passenger car standards, because of the need to allow a longer leadtime for vehicles that were ultimately termed MPV's. Such delay would have occurred had these vehicles been included in the passenger car category. Thus, by establishing the MPV category, the agency accommodated the needs of manufacturers to redesign vehicles that shared characteristics of more than one basic vehicle type and facilitated giving those manufacturers longer leadtime to bring those vehicles into compliance with standards initially applicable only to passenger cars. Examples of vehicles intended to be classified as MPV's include utility vehicles and recreational vehicles such as motorhomes and campers.

When the initial safety standards were adopted, there were clearer differences between the uses of vehicle types and between the physical characteristics of vehicle types. A manufacturer's design choices for a particular body style typically were governed by a single use, e.g., sedans for carrying passengers and vans and pickup trucks for carrying cargo. Most of the vehicles originally classified as MPV's were built on truck chassis, with the vast majority also possessing some feature of off-road capability. (A motor vehicle chassis means the basic operating core of the motor vehicle, including engine, frame, and other essential structural and mechanical parts. It does not include equipment provided for the accommodation of the driver, property or passengers, appliances or equipment. See the Society of Automotive Engineers Standard on motor vehicle nomenclature, SAE J687c.)

The fact that MPV's were built on a truck chassis was used as a surrogate for identifying vehicles that typically not only had such a chassis, but also possessed other characteristics distinct from a passenger car, e.g., greater mass, higher passenger compartment, and greater strength. There was little early experience with special features for occasional off-road operation qualifying a vehicle as an MPV, although one early agency interpretation linked the feature to four-wheel amphibious activity. MPV's were used principally for recreational purposes, and were much less numerous than passenger cars in the late 1960's.

These differences between MPV's and passenger cars indicated to the agency that the MPV's were not presenting the same safety problem as cars, which was borne out by a much lower MPV

accident rate. The agency concluded that there was less need to apply all of the safety standards to MPV's.

The MPV/passgenger car distinctions began to diminish in the early 1970's. Personal use of MPV's began to increase while the design and basic construction of the MPV's began changing. Today, many motor vehicles are not constructed using separate body-frame construction as most of the trucks and MPV's in the 1960's did. Instead, they have unitized construction, which means that the vehicle body and the vehicle frame are a single piece instead of separate. The use of unitized construction confuses the application of a vehicle class definition based on chassis construction. In addition, the sizes of the MPV's are changing, with many models now smaller or lighter than many of the passenger car models. As late as 1977, only 10.2 percent of trucks and MPV's under 10,000 lbs. GVWR were compact; by 1985, 52.6 percent of the nearly 4.5 million such vehicles produced in that year were compact (1985 is the most recent year for which annual production figures were set forth in the "Light Truck and Van Safety Report" to the House Appropriations Committee.) Minivans, nonexistent in the 60's, have become a significant market force and compete directly with the family station wagon. To provide the public with a further understanding of the nature of the vehicle population potentially affected by changing the vehicle definitions, the agency has broken the 1985 production total for light trucks and MPV's down among the various body styles:

Conventional pickups	1,317,000
Compact pickups	1,322,000
Cars with truck bed	31,000
Conventional utility vehicles	138,000
Compact utility vehicles	538,000
Truck station wagons	93,000
Conventional cargo vans	436,000
Compact cargo vans	129,000
Conventional passenger vans	93,000
Compact passenger vans	352,000
Total	4,449,000

The agency's "Light Truck and Van Safety Report" indicates that fatalities per registered vehicle are essentially the same for cars and for trucks and MPV's whose GVWR is 10,000 lbs or less The highest fatality rates among the trucks and MPV's are for utility vehicles and for small pickup trucks.

IV. This Notice

This advance notice of proposed rulemaking provides the public with an opportunity to examine and comment on the efficacy of NHTSA's current definitions of basic vehicle types There are two distinct issues to address. The first consists of determining the manner in which particular vehicles should be grouped together for purposes of applying the safety standards. The second consists of developing definitions of the vehicle classes which are objective and which ensure the inclusion of all vehicles in the class which should be in the class and exclusion of all other vehicles. Depending on the way in which the first issue is resolved, that resolution also may be the resolution of the second issue. If, for example, the decision were to group all vehicles by ranges of GVWR, then the cutoff points between the GVWR ranges would provide the objective basis for definitions that would ensure that vehicles fall within the desired groups. However, if the grouping is based on something that cannot always be determined by objective examination of the vehicles, such as the actual use of the vehicles, then resolving the second issue would require selecting physical characteristics common to the vehicles to be grouped together and making those characteristics the objective basis for the vehicle type definitions.

A. Effect of This Proceeding on Application of Standards

In its May 1987 Report on Light Truck and Van Safety to the U.S. House and Senate Committees on Appropriations, the agency stated that an across-the-board application of passenger car standards to light trucks is not an appropriate or effective method of upgrading safety for these vehicles. Rather, as the agency has been doing since its inception, each new standard or new application of a current standard must be analyzed to determine the appropriateness of applying it to a specific vehicle type. Differences in physical characteristics, such as the weight of the vehicle, height of the passenger compartment, configuration of the rear windows, lack of side doors, or fold-down windshields all may have an effect on the appropriateness of applying specific standards to specific vehicle types.

Consistent with this approach, this proceeding would not result in the agency simply extending existing standards to other vehicle classes. In the event this proceeding results in the expansion of any standard's coverage, an integral part of the rulemaking proceeding would be the preparation of a regulatory impact analysis covering each such expansion. For a further discussion of the possible effect of this proceeding on the application of the standards, see the discussion under the heading, "Executive Order 12291 and DOT Regulatory Policies and Procedures" near the end of this notice.

B. Scope

This notice presents eight different options for comment in Part IV.D. of the Preamble and requests responses to specific questions in Part IV.E. of the Preamble. In addition, in Part IV.G. of the Preamble, the agency publishes for the commenters convenience a list of motor vehicle terms currently in the safety standards. If this rulemaking proceeds to a proposal, the agency will attempt to simplify this list of motor vehicle terms. This would be done by reducing the number of terms used in the standards by consolidating the current terms, and by defining each term that is used in the safety standards.

The current safety standard definitions of vehicle types are contained in § 571.3 of NHTSA's regulations and are reprinted in Part IV.C. of this Preamble. Each of the options which follow in Part IV.D. of this Preamble presents a different combination of motor vehicles currently categorized as a passenger car, MPV or truck. The motorcycle, bus and trailer vehicle types are omitted, so that commenters can focus on the primary thrust of possible future changes. (However, please note that if the agency issues a proposed or final rule on vehicle class definitions, changes may need to be made to the definitions of motorcycle and bus as a result of changes made to the three primary motor vehicle types. For example, it is possible that some new definition of the passenger car or passenger vehicle class would require the review of the definition of motorcycle for continuing appropriateness or for its possible inclusion within a passenger vehicle class.)

The term "light truck" is used in the options section to refer to MPV's and trucks with a Gross Vehicle Weight Rating of 10,000 pounds or less (GVWR—defined in Part IV.C. of this Preamble.) Although this term is not defined currently in the safety standard regulations, it is defined for purposes of NHTSA's fuel economy regulations in § 523.5.

This Notice does not attempt to promote identical vehicle type definitions for purposes of the safety, fuel economy, bumper, theft and emissions programs, nor is it contemplated that the agency will do so in this proceeding. At present, given the differing purposes of the individual statutes generating these definitions and

the differing statutory limitations on amending these definitions, as well as given the adequate workability of the current terms, the development of uniform definitions is not an agency priority. However, the agency does not foreclose the possibility of harmonizing the definitions at some future time, should the need arise. Comments may be submitted on this issue, but the agency requests that commenters not dismiss an option's viability solely on the grounds that the changed safety definitions would be inconsistent with or different from the definitions for some other vehicle regulatory program such as the fuel economy definitions in Part 523 of the agency's regulations.

C. Definitions of Current Motor Vehicle Safety Terms (49 CFR 571.3)

Bus means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons.

Curb weight means the weight of a motor vehicle with standard equipment; maximum capacity of engine fuel, oil, and coolant; and, if so equipped, air conditioning and additional weight optional engine.

Gross vehicle weight ratinq or GVWR means the value specified by the manufacturer as the loaded weight of a single vehicle.

Motorcycle means a motor vehicle with motive power having a seat or saddle for the use of the rider and designed to travel on not more than three wheeels in contact with the ground.

Multipurpose passenger vehicle means a motor vehicle with motive power, except a trailer, designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.

Passenger car means a motor vehicle with motive power, except a multipurpose passenger vehicle, motorcycle, or trailer, designed for carrying 10 persons or less.

Trailer means a motor vehicle with or without motive power, designed for carrying persons or property and for being drawn by another motor vehicle.

Truck means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

Unloaded vehicle weight means the weight of a vehicle with maximum capacity of all fluids necessary for operation of the vehicle, but without cargo, occupants, or accessories that are ordinarily removed from the vehicle when they are not in use.

D. Options

The following eight options present a range of possible approaches to vehicle classification .(Please remember, however, that this discussion limits possible changes to vehicles in the current passenger car, MPV, and truck categories. It does not focus on any vehicle classified as a motorcycle or bus). As stated earlier in this Preamble, the purpose of defining vehicle types is to assist the agency in applying or not applying objectively a safety standard to a particular vehicle type. Accordingly, the following options provide a variety of groupings of different vehicle types. For example, under Option 3, a light utility vehicle (under 6,000 pounds GVWR) would be classified as a passenger vehicle, but under Option 4 would be classified as a light truck. Conversely, *any* vehicle under 5,500 pounds GVWR (including utility vehicles, cargo vans, and pick-up trucks) would be categorized as a passenger vehicle under Option 6.

The Options begin with maintaining the status quo (Option 1). The options progress from the status quo, to a gradual expansion of the three vehicle types to five vehicle types, to a rather radical proposal to put all vehicles into only two categories (Class I and Class II). Option 8 is less a single option than it is a cornucopia of characteristics which the agency presents for commenters to create their own options. Each vehicle characteristic described in Option 8 has potential as a possible determinant of basic vehicle type. NHTSA invites commenters to consider a variety of different combinations of these characteristics and to inform the agency of the results of that effort.

Each option consists of four elements: Basic vehicle types, a general description, examples of how vehicles would be grouped as a result of adopting that option, and questions related to the specific option.

One final note: these options are limited by the use of current motor vehicle classification terminology. For example, all of the "passenger" type vehicles are placed in categories called "passenger cars", "passenger vehicles", or "MPV's". Part of a possible future rulemaking would include the consideration of developing new names or designations for each category of basic vehicle type.

The agency urges commenters not to be limited in making their suggestions by the terminology used or the current applicability of standards to vehicle classes. The goal of this publication is to seek reaction to the different *groupings* of vehicles, to see if one method is considered to be more appropriate than another for the purposes of applying the Federal motor vehicle safety standards.

Option 1

Basic Vehicle Types. Option 1 would have three basic categories of vehicles: passenger car, multipurpose passenger vehicle, and truck.

General Description. This option retains the current system of vehicle type classification, so there would be no change in the current definitions of passenger car, MPV and truck. (See section IV. C. of this Preamble for NHTSA's currently applicable definitions of basic vehicle types.) No reclassifications would result from retaining the current system, and classification distinctions would continue to be based on design characteristics for cars and trucks (designed to carry ten persons or less in the case of a passenger car and designed to carry property in the case of a truck), and a mix of the passenger car design features with other physical characteristics more common to trucks for the MPV.

Classification Examples. Under the current system, all sedans, fastbacks, station wagons, etc., including those that may have a single off-road feature such as 4-wheel drive, are classified as passenger cars. The MPV category includes such vehicles as passenger vans, utility vehicles and those vehicle having one of the body styles listed under the car category and having two or more features for off-road capability.

Question.

Is the current system adequate to ensure appropriate and objective application of safety standards to vehicle types? Why?

Option 2

Basic Vehicle Types. Option 2 would have three basic categories of vehicles: Passenger car, multipurpose passenger vehicle, and truck.

General Description. Option 2 would use the current truck definition, but develop new definitions for passenger car and MPV. The underlying goal of this option is to retain these three basic vehicle types (which includes the MPV as a vehicle which possesses characteristics of both the car and the truck), but to make them easier to apply. This option would update the definitions to reflect events such as the addition of new vehicles in the marketplace and the replacement of the chassis with unitized construction. This updating would facilitate proper classification of individual vehicles in accordance with the basic vehicle types. One possible

effect of this approach would be the reclassification of some vehicles currently classified as MPV's as passenger cars or trucks.

Specifically, this option would amend the definitions of passenger car and MPV to provide that the *primary design purpose* is the principal classification criterion. (The feasibility of this option is dependent upon the development of an objective method of defining and applying the concept of primary design purpose.) Thus, the passenger car type might be replaced with a broader type called passenger vehicle, with the intended inclusion in this class of all vehicles which are primarily designed as *passenger-carrying vehicles*

In addition, Option 2 would rework the elements of the definition of an MPV to ensure that vehicles in this class actually possess characteristics used by vehicles typically larger and heavier than passenger vehicles. Option 2 would focus on revising these elements of the MPV definition in the following ways

First, the option would delete the reference to "built on a truck chassis". Unitized construction has replaced the body-frame as a basic construction technique for vehicles. Because the purpose of "built on a truck chassis" was to include in this category vehicles of heavier, stiffer construction than passenger vehicles, this element would be replaced by some other characteristic that indicates this type of construction. For example, the definition could specify that the power train and load supporting structures be of certain specifications that are characteristic of heavier construction.

Second, the general reference to "special features for occasional off-road operation" (emphasis added) would be replaced by a specification of two particular features, 4-wheel drive and high ground clearance, and supplemented by an objective definition of such clearance. High ground clearance would be demonstrated by the vehicle possessing four out of five of the following characteristics:

(1) Approach angle of not less than 28 degrees;

(2) Departure angle of not less than 20 degrees;

(3) Breakover angle of not less than 14 degrees;

(4) Running clearance of not less than 8 inches;

(5) Front and rear axle clearances of not less than 7 inches.

The approach and departure angles represent the steepest ramp that a vehicle starting on a horizontal surface is capable of entering and traveling up without the portion of the vehicle forward of the front tires, or rearward of the rear tires, respectively, contacting the ramp or the surface.

The breakover angle describes the steepest down ramp which a vehicle starting on a horizontal surface can travel down without its undercarriage between the front and rear wheels contacting the edge on the ground where the ramp and surface meet.

The axle clearance describes the vertical distance between the ground and the axle differentials. Running clearance describes the vertical distance between the ground and lowest point on the vehicle, excluding unsprung weight. The running and axle clearances dictate the height of ground obstacles over which a vehicle is capable of passing.

Thus, under this option, a passenger car would be a vehicle whose primary purpose is to carry passengers. An MPV would meet criteria for heavier, stiffer construction than a passenger car or having off-road capabilities demonstrated by 4 wheel drive and high ground clearance.

Classification Examples. Under this option, the passenger vehicle class would include what traditionally are called passenger cars as well as passenger vans not built with off-road capabilities or with truck power train and load supporting structures (or another characteristic chosen to replace this). The MPV category would include the passenger vans built *with* off-road capabilities or the truck power train and load supporting structures (or other characteristic chosen to replace this), as well as utility vehicles (i.e., vehicles like the Jeep) The truck category would include cargo vans, pickup trucks and all other cargo carrying vehicles.

Questions. 1. What objective vehicle characteristics would be indicative of a vehicle's primary design use? Are there other objective criteria that would be appropriate for determining primary design use?

2. Are load supporting structure and/or power train appropriate indicators of heavier structures typical of cargo-carrying vehicles and recreational vehicles? How can the agency objectively differentiate between those heavier structures and lighter structures? Are there other or more appropriate indicators?

3. Other regulations use the concept of truck or passenger car "derivative". Does this concept have currency anymore, such that it should be an element of these definitions? In other words, assuming that it can be determined whether, for example, a passenger van is a derivative of a cargo van or vice versa, what significance, if any, should such derivative status have? Can it be objectively expressed? How?

4. Are cars and trucks still built on separate assembly lines, so that this could be a distinguishing characteristic? If yes, what significance should this have, if any, in determining vehicle type? Is this an appropriate, objective element that could be useful in defining the basic vehicle types in this definition?

Option 3

Basic Vehicle Types. Option 3 would have three basic vehicle types: passenger vehicle, light truck, and truck.

General Description. Option 3 would eliminate the MPV category and would add a new category, light truck. The definition of passenger car would remain the same, except its name would be changed to eliminate the term car. A possible name for this category would be passenger vehicle. The definition of truck would be amended to provide a minimum GVWR of 10,000 pounds. The definition of the new light truck vehicle type would be adapted from the current fuel economy (Part 523) definition and would resemble the following:

A light truck is a vehicle which satisfies the elements of either paragraph (a) or paragraph (b):

(a) A motor vehicle with a GVWR of 10,000 pounds or less, which is designed to perform at least one of the following functions:

(i) Provide temporary living quarters;

(ii) Transport property on an open bed; or

(iii) Provide greater cargo-carrying than passenger-carrying volume (determined with all designated seating positions in place and adjusted to provide seating).

(b) A motor vehicle that has high ground clearance (as specified in paragraph (c) of this section) and—

(1) Is rated at 6000 pounds GVWR or less and has four wheel drive; or

(2) Is rated at more than 6000 pounds GVWR, but not more than 10,000 pounds GVWR.

(c) A vehicle is considered to have high ground clearance when it has at least four of the following characteristics calculated when the automobile is at curb weight, on a level surface, with the front wheels parallel to the automobile's longitudinal centerline, and the tires inflated to the manufacturer's recommended pressure—

(1) Approach angle of not less than 28 degree.

(2) Breakover angle of not less than 14 degrees.

(3) Departure angle of not less than 20 degrees.

(4) Running clearance of not less than 8 inches.

(5) Front and rear axle clearances of not less than 7 inches.

The intended effect of eliminating the MPV vehicle type and adding a light truck vehicle type is the reclassification of vehicle lines such as the passenger minivan and small utility vehicles as passenger vehicles. emphasizing the *use* for which the vehicle is designed

Classification Examples. Under this option, cars, passenger vans and small utility vehicles would be classified as passenger vehicles, while the cargo van and large utility vehicles would be classified as light trucks. Any vehicle that is designed to transport property or special purpose equipment and has a GVWR greater than 10,000 pounds would be classified as a truck.

Questions. 1. Under this classification scheme, it would be possible to have the cargo carrying version and the passenger carrying version of the same vehicle classified as different vehicle types (passenger car and light truck). Are there any problems with this? Would it be appropriate to apply standards differently to passenger vans and cargo vans?

2. Would it also be possible to classify a passenger van under both the passenger vehicle and light truck vehicle classes? In other words, do any of the passenger vans with 4 wheel drive also have high ground clearance? How could the possibility of such dual classification be prevented?

3. What method could be used to determine objectively that a vehicle has greater cargo carrying volume than passenger-carrying volume and vice versa? Is the method in SAE J1100 adequate?

4. Are there other purposes that should be included under paragraph (a) of the definition of light truck? Why?

Option 4

Basic Vehicle Types. Option 4 would have four basic vehicle types: passenger vehicle I, passenger vehicle II, light truck and truck.

General Description. This would entail eliminating the MPV type, amending the current truck definition to provide for a minimum GVWR of 10,000 pounds, revising the current passenger car definition, adding an entirely new passenger vehicle category, and adding a light truck category. The scheme would resemble the following.

Passenger Vehicle I: Means a vehicle designed primarily to carry ten persons or less, with occasional cargo-carrying purposes, with a GVWR of 4000 pounds or less. The interior design, with all designated seating positions in place and adjusted to use for seating, manifests intended use as a passenger vehicle and the limited interior volume restricts cargo carrying capacity

The vehicle may have some characteristics of a vehicle with off-road capabilities, but these are incidental to the primary intended purpose of the vehicle as a passenger carrying vehicle and are not sufficient to enable the vehicle to meet the definition of light truck. Indications of off-road capability are:

(1) Approach angle of not less than 28 degrees.

(2) Departure angle of not less than 20 degrees.

(3) Breakover angle of not less than 14 degrees.

(4) Running clerance of not less than 8 inches.

(5) Front and rear axle clearances of not less than 7 inches.

Passenger Vehicle II: Means a vehicle designed primarily to carry ten persons or less, with occasional cargo-carrying purposes, with a minimum GVWR of 4000 pounds and a maximum GVWR of 6000 pounds. As in the case of Passenger Vehicle I, the interior design of this category manifests intended use as a passenger vehicle

The vehicle may have some characteristics of a vehicle with off-road capabilities, but these are incidental to the primary intended purpose of the vehicle as a passenger carrying vehicle and are not sufficient to enable the vehicle to meet the definition of light truck. Indications of off-road capability are:

(1) Approach angle of not less than 28 degrees.

(2) Departure angle of not less than 20 degrees.

(3) Breakover angle of not less than 14 degrees.

(4) Running clerance of not less than 8 inches

(5) Front and rear axle clearances of not less than 7 inches.

Light truck: Means a motor vehicle designed primarily as a cargo-carrying or utility vehicle, with a GVWR of 10,000 pounds or less. The vehicle possesses the principal features of either a vehicle capable of off road operations, as specified in paragraph (a), or a vehicle used for one of the purposes listed in paragraph (b).

(a) Off-road capabilities exist when the vehicle has 4-wheel drive and four of the five following characteristics:

(i) Approach angle of not less than 28 degree.

(ii) Breakover angle of not less than 14 degrees.

(iii) Departure angle of not less than 20 degrees.

(iv) Running clearance of not less than 8 inches

(v) Front and rear axle clearances of not less than 7 inches

(b) Utility functions:

(i) Provide temporary living quarters;

(ii) Transport property on an open bed; or

(iii) Provide greater cargo-carrying than passenger carrying volume (determined by how the vehicle is configured as it comes from the manufacturer).

The purpose of this option is to recognize both primary design use and weight in a vehicle's classification, since both may effect safety performance. The option would have two passenger classes, reflecting the substantive differences among vehicles designed primarily for passenger use. For example, both minivans and compact sedans are marketed for family use today, but their features clearly differ, differences which may affect the vehicle's safety performance The purpose of using 4000 pounds GVWR is to aid in distinguishing different safety performance for cars designed for the same purpose. Further, a vehicle with a GVWR greater than 6000 pounds would be classified as a light truck. These kinds of distinctions could be recognized and used to group vehicles. Acknowledging these distinctions would enhance the agency's ability to assess effectively the application of each standard to each vehicle type

Classification Examples. Under this option, cars and passenger vans with GVWR under 4000 pounds would be categorized as passenger vehicle I, but the same vehicles with a GVWR of at least 4000 pounds and less than 6000 pounds would be grouped together as passenger vehicle II. Light trucks would include all vehicles designed for utility or cargo-carrying purposes that have a GVWR less than 10,000 pounds.

Questions

1. What objective vehicle characteristics exist that would be indicative of a vehicle's primary design use? Are there other objective criteria that would be appropriate for determining primary design use?

2. Is there another way to draw the line between passenger car types?

3. As an alternative to having two passenger car classes, should there be two light truck classes?

4. What method could be used to determine objectively that a vehicle has greater cargo-carrying volume than passenger-carrying volume and vice versa? Is SAE J1100 an adequate method?

Option 5

Basic Vehicle Types. Option 5 has four basic vehicle types: passenger vehicle, light truck I, light truck II, and truck.

General Description. This option would revise the current definition of passenger car and amend the definition of truck to provide for a minimum GVWR of 10,000 pounds, would eliminate the MPV category and add two new light truck vehicle classes. The system would resemble the following:

Passenger vehicle: Means a vehicle designed primarily to carry ten persons or less, with occasional cargo-carrying purposes and a GVWR of less than 5500 pounds. The interior design manifests intended use as a passenger vehicle and the limited interior volume restricts cargo carrying capacity. The vehicle may or may not have some features indicating off-road capability.

Light truck I: Means a motor vehicle designed primarily as a cargo-carrying or utility vehicle, with a GVWR of 5500 pounds or less. The vehicle possesses the principal features of either a vehicle capable of off-road operations, as specified in paragraph (a), or a vehicle used for one of the purposes listed in paragraph (b).

(a) Off-road capabilities exist when the vehicle has 4-wheel drive and four of the five following characteristics:

(i) Approach angle of not less than 28 degree.

(ii) Breakover angle of not less than 14 degrees

(iii) Departure angle of not less than 20 degrees.

(iv) Running clearance of not less than 8 inches

(v) Front and rear axle clearances of not less than 7 inches.

(b) Utility functions:

(i) Provide temporary living quarters;

(ii) Transport property on an open bed; or

(iii) Provide greater cargo-carrying than passenger-carrying volume (determined by how the vehicle is configured as it comes from the manufacturer).

Light truck II: Means a motor vehicle designed primarily as a cargo-carrying or utility vehicle, with a GVWR of at least 5500 pounds but less than 10,000 pounds. The vehicle possesses the principal features of either a vehicle capable of off-road operations, as specified in paragraph (a), or a vehicle used for one of the purposes listed in paragraph (b).

(a) Off-road capabilities exist when the vehicle has 4-wheel drive and four of the five following characteristics:

(i) Approach angle of not less than 28 degree.

(ii) Breakover angle of not less than 14 degrees.

(iii) Departure angle of not less than 20 degrees.

(iv) Running clearance of not less than 8 inches.

(v) Front and rear axle clearances of not less than 7 inches.

(b) Utility functions:

(i) Provide temporary living quarters;

(ii) Transport property on an open bed; or

(iii) Provide greater cargo-carrying than passenger-carrying volume (determined by how the vehicle is configured as it comes from the manufacturer).

The purpose of this option is to recognize the differences which weight and structure may create in safety performance. Two light truck categories reflect these differences, which may be important in determining the application of safety standards. While a larger truck typically has a greater mass, a higher passenger compartment, a higher center of gravity, and roof pillars that are closer together than a passenger car, a smaller light truck does not necessarily differ as much from a car in these respects.

Classification Examples. Under this option, cars and passenger vans would be classified as passenger vehicles, all compact light trucks would be classified as light truck I (such as compact pickup trucks, compact cargo vans), and all conventionally sized trucks would be classified as light truck II. Any vehicle over 10,000 pounds GVWR would be classified as a truck.

Questions. 1. What objective vehicle characteristics exist that would be indicative of a vehicle's primary design use? Are there other objective criteria that would be appropriate for determining primary design use?

2. Are there other purposes that should be included under paragraph (a) of both definitions of light trucks? Why?

3. Is there another vehicle characteristic that should be used in distinguishing between the two light truck types? Why?

4. Is 5500 pounds GVWR the best cut-off between light truck classes? If not, what would be a better cut-off? Why?

Option 6

Basic vehicle types. Option 6 would have five basic vehicle types: passenger car, pickup truck, van, special purpose vehicle and truck

General description. This option would revise the definition of passenger car, eliminate the MPV category and amend the current definition of truck to provide for a minimum GVWR of 10,000 pounds. In addition, it would segment the under 10,000 pound GVWR fleet into four categories: passenger car, pickup truck, van, and special purpose vehicle. This option is designed to be consistent with current industry classification and, thus, should facilitate tracking the on-road safety record of these vehicles. These proposed categories should not result in any significant change in the applicability of safety standards. Reclassification under this scheme would be used only as a tool to more accurately group vehicle types for purposes of monitoring and regulating safety performance. The scheme for vehicles with a GVWR of less than 10,000 pounds would resemble the following:

Passenger car: Means a vehicle with motive power, except for a motorcycle or a van, that is designed and manufactured primarily for transporting 10 passengers or less.

Pickup truck: Means a vehicle other than a passenger car that has a passenger compartment and an open cargo bed that provides greater cargo-carrying than passenger-carrying volume

Van: Means a vehicle other than a passenger car that has an integral enclosure fully enclosing the driver compartment, passenger compartment, and cargo area, with no body section protruding more than 30 inches ahead of the leading edge of the windshield.

Special purpose vehicle: Means a vehicle that is capable of off-highway operation and that has at least four of the following characteristics calculated when the vehicle is at curb weight, on a level surface, with the front wheels parallel to the vehicle's longitudinal centerline, and the tires inflated to the manufacturer's recommended pressure:

(1) Approach angle of not less than 28 degrees.

(2) Breakover angle of not less than 14 degrees.

(3) Departure angle of not less than 20 degrees.

(4) Running clearance of not less than 8 inches.

(5) Front and rear axle clearances of not less than 7 inches each.

Classification examples. Under this option, any vehicle under 10,000 pounds GVWR would be classified as one of the four vehicle types described (passenger car, pickup truck, van and special purpose vehicle). These categories are intended to comprise the current market vehicle styles. Any vehicle over 10,000 pounds GVWR would be classified as a truck.

Questions. 1. What method could be used to determine objectively that a vehicle has greater cargo-carrying volume than passenger carrying volume and vice versa? Is the method in SAE J1100 adequate?

2. Under this option, it is possible that the van and passenger car definitions could overlap, if vans begin to be constructed with body sections protruding more than 30 inches ahead of the leading edge of the windshield. Are there other, better criteria on which to distinguish objectively the difference between passenger cars and vans?

3. Under this classification scheme, there would be no separate category for buses (except school buses) under 10,000 pounds GVWR. Many, if not most, "buses" of this type typically look like and would be considered to be vans. Are there any problems associated with this approach?

Option 7

Basic Vehicle Types. Option 7 would have two basic vehicle types: passenger vehicle and truck.

General description. This option goes the furthest in simplifying vehicle classification by eliminating all but two basic vehicle types—passenger vehicle (or Class I) and truck (or Class II). The current MPV category would be eliminated and all vehicles would be categorized according to primary design use—as passenger carrying or cargo carrying. In addition, in recognition of the role of weight in crash performance, a cargo carrying vehicle would have to meet a minimum GVWR weight requirement to be classified as a truck (Class II).

The passenger vehicle type would be defined as any vehicle designed primarily to carry ten persons or less, or any vehicle, with a GVWR less than 5500 lbs., designed primarily to carry cargo. A truck would be defined as any vehicle designed primarily to carry cargo, with a minimum GVWR of 5500 pounds. The minimum truck weight of 5500 pounds GVWR represents the typical cut-off weight between standard and compact light trucks. Any cargo-carrying vehicle which does not meet this weight requirement would automatically be classified as a passenger vehicle, regardless of its use design.

This option combines the role of the design use of the vehicle as well as weight. As noted previously, the agency stated in its May 1987 Report to the Appropriations Committees that small pickups and MPV's have higher fatality rates than average light duty vehicles and all passenger cars. This performance may be ascribed in part to their weight. Also, this option avoids some inconsistencies of a driver of a cargo-carrying vehicle being afforded less protection by a standard than the driver of a nominally identical, passenger-carrying version of the vehicle.

Classification Examples. Passenger cars and passenger vans would be in the passenger vehicle type (Class I), regardless of their weight. Pickup trucks, utility vehicles, campers, etc. *over* 5500 lb. GVWR would be in Trucks (Class II). Any pickup or other truck under 5500 GVWR would be in Class I.

Questions. (1) What objective vehicle characteristics exist that would be indicative of a vehicle's primary design use? Are there other objective criteria that would be appropriate for determining primary design use?

(2) Is curb weight a more appropriate criterion than GVWR to use? (See the definition in Part IV.C. of this Preamble.) Why?

(3) Is there a more appropriate cut-off than 5500 pounds GVWR? Why?

Option 8

Option 8 is less a specific option than it is a description of vehicle characteristics, one or more of which could be used in the development of vehicle type definitions. Some of these characteristics have been used in the previous options. We invite commenters to group two or more characteristics together in any way they believe appropriate. Since the purpose of these vehicle type definitions is to promote the effective application of motor vehicle safety standards by the agency, a rationale should be included with each suggested grouping of characteristics.

1. *Vehicle volume:* Means the proportion of passenger-carrying volume versus cargo-carrying volume. This characteristic aids in the determination of the intended use of the vehicle. For example, a light vehicle that has a greater passenger-carrying volume than cargo-carrying volume would be considered a passenger vehicle; conversely, a light vehicle with greater cargo carrying volume than passenger carrying volume would be considered a light truck.

Other regulatory programs (including the fuel economy program conducted by this agency and the Environmental Protection Agency) use vehicle volume as a factor in determining the vehicle type. In one case, if a vehicle has passenger seats which can be removed easily, the space is considered to be cargo space. Another option is to define the space with all designated seating positions in place and adjusted for use as seats—thus, if the vehicle is equipped with passenger seats the space would be considered passenger space, whether or not the seats could be removed.

Using cargo-carrying and passenger-carrying volumes to classify vehicles is consistent with the desire to have categories that reflect vehicle use. However, classification by volume alone ignores the role that the vehicle structure plays in safety. Thus, a compact pickup truck classified as primarily cargo-carrying may be structurally more prone to allow occupant injury than a standard size van classified as primarily passenger-carrying. In addition, compact pickups—which have greater cargo volume than passenger volume—are often used as passenger-carrying vehicles with one to three passengers. Therefore, while volume may serve as one indicator for vehicle classification, it may not be appropriate as the only indicator.

And, finally, in determining capacity, the agency must answer questions relating to such matters as the treatment of seating positions that may be either removed or moved such as by folding and the treatment of space that might qualify for both cargo-carrying and passenger-carrying (simultaneously or alternatively).

Questions. a. How is cargo-carrying and passenger-carrying capacity measured? Is there a method besides SAE 1100 that works? Is there a preferred method?

b. Can capacity change?

c. If space can be both, how is its primary use objectively determined?

d. Should vehicle volume be used in combination with other characteristics? If yes, which characteristics? Why?

2. *Height of passenger compartment:* It appears that one of the reasons light trucks have lower occupant fatality rates than passenger cars in side impact crashes is their higher passenger compartment. Accident data show an occupant fatality rate for light trucks in side impact crashes that is about half that of passenger car occupants. If a light truck is struck in the side by a passenger car whose bumper is the same height as the rocker panel of the truck, the occupants of the truck are not likely to suffer serious injury. The higher position of the occupant may offer more general protection as well. This advantage may decrease as the number of light trucks continues to grow, since there is no advantage when vehicles of the same height are involved in an accident.

A major disadvantage of this approach is that it does not consider the intended use of the vehicle. Both cargo-carrying and passenger-carrying

vehicles may have passenger compartment heights that vary widely. However, it may be possible to use the height of the passenger compartment as a distinguishing characteristic, especially in conjunction with another vehicle characteristic.

Questions. a. Measured from the ground to the vehicle's seating reference point, what is the range of passenger compartment heights for passenger cars, light trucks, MPV's, trucks, etc.? Is there a more appropriate method for measuring passenger compartment height?

b. Should passenger compartment height be used in combination with other characteristics? If yes, which characteristics? Why?

3. *Wheelbase:* Current statistics indicate that the range of wheelbase lengths for pickup trucks is 103 to 155.5 inches; for vans it is 88 to 138 inches; for MPV's it is 92.5 to 129.5 inches; and for passenger cars it is 85 inches to 134 inches.

Classifying light trucks by wheelbase has the same disadvantage as classifying by height of passenger compartment, that is, this approach does not consider the intended use of the vehicle. Both cargo-carrying and passenger-carrying vehicles may fall into longer or shorter wheebase classes. However, since in most cases there is a relationship between structural configuration of a vehicle and safety performance, and wheelbase length is one structural parameter, wheelbase length may be an appropriate characteristic to use in defining basic vehicle types.

Questions. a. What differentiations in vehicle crash performance, if any, can be made based upon a vehicle's wheelbase length?

b. Should wheelbase length be used in combination with other characteristics? If yes, which characteristics? Why?

4. *Weight:* Weight is a common differentiating characteristic, although both GVWR and curb weight are used As a general rule, heavier vehicles offer more occupant protection than lighter vehicles. Heavier vehicles are usually stronger and have a higher passenger compartment. Currently, NHTSA uses the following weight cut-offs for different purposes of applying its safety standards:

GVWR of 10,000 pounds
GVWR of 8500 pounds
Unloaded weight of 4,000 pounds
Unloaded weight of 5,500 pounds.

The agency uses weight cut-offs for safety related reasons, for classifying fuel economy vehicles, and for purposes of applying the safety standards for other reasons. For example, a GVWR of up to 8,500 pounds and an unloaded weight of 5,500 pounds have been used or considered in applying the safety standards to avoid placing an undue burden on second stage manufacturers. (When such weight cut-offs are applied, they exclude second stage manufacturers from a standard's coverage This relieves testing and certification problems and additional costs for final stage manufacturers, many of which are small businesses.)

A weight oriented classification acknowledges that a heavier vehicle generally offers more protection than a lighter vehicle. A heavier vehicle usually is stronger and has a higher passenger compartment than a lighter vehicle. This was the rationale used in the 1960's for separate light vehicle safety standards, when all light trucks were heavier and larger than passenger cars. Now, the lighter pickup trucks, vans and utility vehicles possess these characteristics to a lesser extent. Accordingly, classification by weight would allow the smaller vehicles to be examined for more safety protection without imposing undue safety protections on the larger light trucks. However, using weight alone would have the disadvantage of not considering use of a vehicle in its classification.

Questions. a. Should weight be used alone as a differentiating characteristic?

b. If not, with what other characteristics would it best be linked? Why?

c. Are there other appropriate weights that could be used for this purpose? What are they?

E. General Questions

In addition to the questions asked in relation to specific options and vehicle characteristics, the agency requests responses to the following questions:

1. Should the multipurpose passenger vehicle category be eliminated? Does it continue to serve a safety-related purpose in distinguishing one vehicle type from another?

2. To what extent is redefining vehicle types necessary to ensure that each safety standard is applied to appropriate vehicles? If redefinition is not considered necessary, would such new definitions at least aid the effort to ensure that each safety standard is applied appropriately to vehicles?

3. How would each manufacturer's vehicles be categorized under the alternative approaches?

4. What impact would each of the alternative approaches have on domestic and foreign manufacturers of affected classes of vehicles?

5. Are there any particular lead time problems if certain standards are applied to new categories of vehicles at the final rule stage? Assuming applicability of new standards, how much lead time would be required under each of the options?

F. Request for Comments

Interested persons are invited to submit comments on these options. Please observe the following in submitting comments.

1. *Number of Copies.* It is requested but not required that 10 copies be submitted.

2. *Length of Comment.* No comment may exceed 15 pages in length, but necessary attachments may be appended to a submission without regard to the 15-page limit. (49 CFR 553.21). The page limitation is intended to encourage concise presentation of a commenter's primary arguments.

3. *Request for Confidential Treatment.* If a commenter wishes to submit certain information under a claim of confidentiality, submit three copies of the complete submission, including purportedly confidential business information, to the Chief Counsel, NHTSA, at the street address given above, and submit seven copies from which the purportedly confidential information has been deleted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. (49 CFR Part 512)

4. *Comment Due Date and Inspection Policy.* All comments received before the close of business on the comment due date indicated in the **DATES** section of this Preamble will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date also will be considered. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, so the agency recommends that interested persons continue to examine the docket for new material.

5. *Notice of Agency Receipt of Comment.* If you wish notification of the docket's receipt of your comments please enclose a self-addressed, stamped postcard in the envelope with your comments. The docket supervisor will return the postcard by mail upon receipt of the comments.

G. List of Motor Vehicle Terms

The agency has begun to develop a list of specific motor vehicle terms which are used but not defined in § 571.3 of the current safety standard regulations. Many of them are defined, however, within the individual standards which use those terms. Should the agency continue with this rulemaking proceeding, one element of any future rulemaking would be to simplify terminology by reducing the number of specific vehicle type terms used in the regulations and to replace them with fewer and more general terms.

For example, one result may be that the terms "camper" and "motorhome" are combined for use in the agency's safety standards. If the terms are combined, a new term, such as "residential vehicle", would be defined in § 571.3 and would be used in place of "camper" and "motorhome" wherever the terms appear in the safety regulations. The following table is the first step in this project. Column I indicates the standard number and Column II indicates the referenced term in the Standard indicated in Column I. Column III is blank, but would indicate the new term when the project is completed. The goal of this project is to use fewer terms, and to include definitions in § 571.3, so that each standard's scope is clear. The agency encourages comments on this list—both by suggesting additional terms in the safety standards which are undefined, by grouping some of the following terms, naming the new groupings, as well as providing a definition for any grouping.

Column I—Standard No.	Column II—Motor vehicle term	Column III—New m.v term
108	Slide-in camper (S4.5.6)	
114	Walk-in van-type vehicle (S2)	
	Open-body type vehicles manufactured for operation without doors (S4.1)	
115	Trailer kit (S2)	
	Incomplete vehicle (S2)	
119	Lightweight truck (S4)	
121	Load divider dolly (S3)	
	Agricultural commodity trailer (S5.6, 5.8)	
	Auto transporter (S5.3, 5.8)	
	Heavy hauler trailer (S5.3, 5. 8)	
	Pulpwood trailer (S5.6, 5.8)	
	Straddle trailer (S5.6)	
	Flatbed semi-trailer (S6. 1.10)	
126	Slide-in camper (S4)	
	Camper (S4)	
203	Walk-in van (S2)	
204	Walk-in van (S2)	
205	Slide-in camper (S3)	
	Pickup cover (S3)	
	Camper (S4)	
	Motor home (S5.1.1)	
208	Convertible. (S4.1.1.3.1; S4.2 2)	
	Open-body vehicle (S4.1.1.3.1; S4.2 2)	
	Walk-in van-type truck (S4.2.2)	
	Motor home (S4.2.2)	
	Vehicle designed to be exclusively sold to the US Postal Service (S4.2.2)	
	Vehicle carrying chassis-mount camper (S4.2.2)	
212	Forward control vehicle (S3)	
	Walk-in van-type vehicle (S3)	
	Open-body type vehicle with fold-down or removable windshields (S3)	
216	Convertible (S3)	
219	Forward control vehicle (S3)	
	Walk-in van-type vehicle (S3)	
	Open-body type vehicle with fold-down or removable windshields (S3)	

V. Other Matters

A. Executive Order 12291 and DOT Regulatory Policies and Procedures

The impacts of any proposal that might be issued in this proceeding are presently too speculative for the agency to make a determination whether the proposed rule would be a "major regulation" under Executive Order 12291. Should the agency decide to proceed with a notice of proposed rulemaking, that notice would be accompanied by a determination of this issue.

Based on the likely public interest in this proceeding, this agency has determined that any proposed rule that might be issued would be a significant regulation under the Department's Regulatory Policies and Procedures. Pursuant to that determination, this agency has considered and, to the extent feasible at this early stage of this proceeding, evaluated the impacts and issues regarding reclassification.

In this advance notice, the agency's interest is focused strictly on the issue of whether and how the existing vehicle type definitions might be modified. However, if a proposal were ultimately issued, the agency would, in developing that proposal, address the additional issue of whether to allow the modification of the definitions to affect the application of any standard. This additional issue would arise because whether the proposal were to replace existing vehicle types with new types or were to result in some vehicles being moved from one existing vehicle type to another, the proposal could, if not accompanied by offsetting changes to the application sections of the standards, have the effect of altering the coverage of some standards.

The issue of narrowing the application of a standard so that a vehicle becomes subject to less stringent requirements would not arise because the agency intends to ensure that if any rule is issued in this proceeding, it does not result in reducing the level of safety of any motor vehicle. For example, if the passenger *car* type were replaced by a passenger motor *vehicle* type, the agency would amend the standards' application sections to ensure that any standard which previously applied to passenger cars would apply to those passenger motor vehicles that were formerly classified as passenger cars.

The agency has not decided whether to allow the modification of the vehicle type definitions to result in the expanded application of any standard. Such expansion could occur if, for example, certain vehicles were moved from the multipurpose passenger vehicle type to the passenger car type without any offsetting change to the application section of standards applicable to passenger cars. In that case, those former multipurpose passenger vehicles would become regulated in the same fashion and to the same extent as the vehicles currently in the passenger car type. Therefore, the issuance of a proposal would make it necessary for the agency to confront the issue of whether to allow the modification of the type definitions to have that effect or whether to adopt offsetting changes to the application sections to maintain the status quo regarding the application of the standards.

Any decision to propose allowing the definition modification to change the status quo and expand the application of any standard would be based on a preliminary regulatory impact analysis. Three possible outcomes of such an analysis are anticipated. First, if a regulatory analysis resulted in a tentative determination that it would be appropriate under the Vehicle Safety Act's statutory criteria to allow the reclassification of vehicles to bring additional vehicles within the scope of any of the standards without modifications to the performance requirements or test procedures, extension of the standard would be a part of the proposal. Second, if a regulatory analysis indicated that a standard, if newly applied to particular vehicle models, would meet a safety need, but would be impracticable, the agency would propose adopting similar offsetting changes in the application section, at least temporarily, so that after this rulemaking proceeding, the agency could determine if the standard could be applied, possibly with modifications, in a reasonable and practicable manner. Third, if a regulatory analysis results in the conclusion that it would not be

reasonable, practicable or meet a safety need to allow the reclassification to have that effect with respect to particular vehicles, the proposal would not include an extension of the standards to those vehicles. In this third case, the results of the reclassification would be offset by corresponding changes to the application section of the standards to ensure that they will not be applied to those vehicles. If the proposal did not alter the current application of the standards to particular vehicles, the impacts of this rulemaking would be minimal.

The agency is unable to estimate at this time the costs or benefits of any extension of any standard to light trucks or MPV's. The agency has conducted extensive analyses and evaluations of the benefits and costs of the standards as they apply to passenger cars. (For further information on these materials, contact Donald Bischoff, Director of the Office of Regulatory Analysis, regarding rulemaking analyses, and Frank Ephraim, Director of the Office of Standards Evaluation, regarding evaluations of existing standards.) However, the results of those analyses and evaluations cannot simply be applied to light trucks and MPV's. When and if the agency decides to issue a proposal, it will gather information on how the light trucks and MPV's are built today, the extent to which they already comply with potential requirements, the safety benefits of improved performance, and the costs to the vehicle manufacturers and other affected parties for any necessary vehicle modifications. This information would then be used to prepare a preliminary regulatory analysis.

B. National Environmental Policy Act

The agency will review any future rulemaking notice under the Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) to determine whether any provisions would have a significant impact on the quality of the human environment.

C. Regulatory Flexibility Act

Review of this notice under the Regulatory Flexibility Act is not required because the Regulatory Flexibility Act does not apply to an advance notice of proposed rulemaking. Should the agency decide to proceed with a notice of proposed rulemaking, review of that notice under the Regulatory Flexibility Act would be made at that time.

D. Semiannual Agenda

This document appears as item number 1905 in the Department's Semiannual Regulatory Agenda, published in the **Federal Register** on April 27, 1987 (52 FR 14548, 14645; RIN #2127–AA57).

Authority: Sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on October 23, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87–24983 Filed 10–27–87; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

Pacific Halibut of the Bering Sea

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of a draft environmental assessment and regulatory impact review (EA/RIR) and request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has prepared a draft EA/RIR that assesses potential effects of regulatory changes affecting the Pacific halibut fishery in the Bering Sea. The purpose of this notice is to solicit public comments on the draft EA/RIR, especially relating to environmental quality issues concerning the regulatory changes considered. Copies of the draft EA/RIR may be obtained from the Council at the address below.

DATE: Comments on the draft EA/RIR are invited until November 27, 1987.

ADDRESSES: Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Maine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668.

Copies of the draft EA/RIR may be requested from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99501.

FOR FURTHER INFORMATION CONTACT: Jay J. C. Ginter (Fishery Management Biologist, NMFS), 907–586–7229; or the Council, 907–274–4563.

SUPPLEMENTARY INFORMATION: The Pacific halibut fishery is regulated under authority of the International Pacific Halibut Commission (IPHC) established by a Convention between the United States and Canada. The Northern Pacific Halibut Act of 1982 (Halibut Act) gives effect to Convention amendments made in 1979 and provides the Council with authority to develop regulations governing halibut fishing off Alaska which are in addition to, and not in conflict with, regulations adopted by the IPHC. Such regulations may only be implemented with approval of the Secretary of Commerce (Secretary).

In July 1987, the Council solicited regulatory amendment proposals for the 1988 halibut fishing season. The Council received and reviewed 73 proposals, but decided at its September 1987 meeting to consider only certain allocative measures recently adopted by the IPHC for the Pribilof and Nelson Island areas (Regulatory Areas 4C and 4E respectively). These measures for these areas likely will be repealed from IPHC regulations for 1988 because of their allocative nature. Under the Halibut Act, however, the Council has authority to develop these or other allocative measures.

Specifically, the allocative measures being considered by the Council for Regulatory Areas 4C and 4E include designating fishing periods, limiting amounts of fish landed per trip, requiring vessel clearance and hold inspection, and exemption from the 72-hour pre-period fishing restriction. The Council is considering two other alternatives which include (1) doing nothing, which would likely result in the allocative measures listed above being repealed, and (2) instituting a vessel maximum size limit of 30 feet for Regulatory Areas 4C and 4E only.

The Council's Halibut Management Team has prepared a draft EA/RIR that assesses the potential environmental and economic effects of all of the regulatory alternatives under consideration. Copies of this draft EA/RIR may be requested from the Council (see **ADDRESSES**).

Comments on how any of the alternatives may affect the human environment are especially requested.

The Council intends to make a final decision on these alternatives at its next scheduled meeting, December 9–11, 1987. If necessary, a proposed rule implementing the Council's decision would be published as soon as practicable after that date with an additional opportunity for public comment. Any resulting final rule, if approved by the Secretary, would be in effect before the beginning of the 1988 halibut fishing season.

Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773–773k.

Dated: October 23, 1987.

Morris M. Pallozzi,

Director, Office of Enforcement, National Marine Fisheries Service.

[FR Doc. 87-24956 Filed 10-27-87; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 657

Atlantic Salmon Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a fishery management plan for Atlantic salmon and request for comments.

SUMMARY: NOAA issues this notice that the New England Fishery Management Council (Council) has submitted a Fishery Management Plan for Atlantic Salmon (FMP) for Secretarial review and is requesting comments from the public. Copies of the FMP may be obtained from the address below.

DATE: Comments on the FMP are invited until Saturday, December 19, 1987.

ADDRESSES: Send comments to Richard Roe, Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on the Atlantic Salmon FMP."

Copies of the FMP are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Peter Colosi (Chief, Plan Review Branch), 617-281-3600, ext. 232.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act requires that each regional fishery management council submit any fishery management plan or amendment it prepares to the Secretary of Commerce for review and approval or disapproval. The Magnuson Act also requires that the Secretary, upon receiving the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary considers any public comments in determining whether to approve the plan or amendment.

This FMP proposes to establish a management program for the U.S. Atlantic salmon resource to complement existing management programs of the New England States and to complement Federal management authority over salmon of domestic origin on the high seas (beyond 12 miles) conferred to the United States as a signatory nation to the North Atlantic Salmon Conservation Organization (NASCO).

The FMP proposes to prohibit the possession of Atlantic salmon (*Salmo salar*) taken from Federal waters, thereby preventing a non-traditional recreational fishery or a new commercial fishery from developing in the exclusive economic zone. This action is fully consistent with the management goals of NASCO and reinforces the ongoing Atlantic salmon restoration programs being conducted by the States in cooperation with Federal agencies.

Regulations proposed by the Council to implement this FMP are scheduled to be published within 15 days.

(16 U.S.C. 1801 *et.seq.*)

Dated: October 23, 1987.

Morris M. Pallozzi,

Director of Office of Enforcement, National Marine Fisheries Service.

[FR Doc. 87-24957 Filed 10-27-87; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 208
Wednesday, October 28, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

National Advisory Council on Rural Development; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Office of the Secretary schedules the second meeting of the National Advisory Council on Rural Development:

Name: National Advisory Council on Rural Development.

Date: December 3-4, 1987.

Time and Place: December 3-4, 1987; Holiday Inn Airport South, 3317 Fern Valley Road, Louisville, Kentucky. December 3, 1:00 p.m.-5:00 p.m.; December 4, 8:30 a.m.-3:00 p.m.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To advise the Secretary on the rural development needs, goals, objectives, plans, and recommendations of multistate, State, substate and local organizations and jurisdictions. The Council will provide the Secretary with assistance in identifying rural problems and supporting efforts and initiatives in rural development.

Contact Person: Jeanne Kling, Acting Assistant, Office of the Under Secretary for Small Community and Rural Development, U.S. Department of Agriculture, Room 219-A, Administration Building, Washington, DC 20250, telephone (202) 447-5371.

Done at Washington, DC, this 22nd day of October, 1987.

La Verne Ausman,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 87-24926 Filed 10-27-87; 8:45 am]

BILLING CODE 3410-01-M

Forms Under Review by Office of Management and Budget

October 23, 1987.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3404(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg. Washington, DC 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Farmers Home Administration

Form FmHA 410-A, Application for Rural Housing Assistance (Non Farm Tract)
On occasion
Individuals or households; 250,000 responses; 312,500 hours; not applicable under 3504(h)
Jack Holston, (202) 382-9736

- Farmers Home Administration

7 CFR Part 1955-B, Management of Property On occasion
Individuals or households; State or local governments; Business or other for-profit; Federal agencies or employees; Small businesses or organizations; 2,900 responses; 910 hours; not applicable under 3504(h) Jack Holston, (202) 382-9736

- Food and Nutrition Service

Child Care Food Program Regulations (Part 226) and related forms FNS 82, 341, 342, 343, 344, 345, 345-1, 430, 431, 433, and 581
Recordkeeping; On occasions; Monthly; Annually; 405, 956 responses; 1,42,609 hours; not applicable under 3504(h)
Albert V. Perna, (703) 756-3600

New

- Agricultural Cooperative Service

Agricultural Cooperative Service Questionnarie: Market Potential for New Cooperatives (Buyer Survey for New Cooperative Activity)
On occasion
Businesses or other for-profit; Small businesses or organizations; 105 responses; 53 hours; not applicable under 3504(h)
John T. Haas, (202) 653-6954

Revision

- Agricultural Marketing Service

Dairy Promotion and Research Order DA-14, -16, -17, -18, -19, -20, and -26
Recordkeeping; Monthly; Annually
Farms; Businesses or other for-profit; Small businesses or organization; 15,660 responses; 8,913 hours; not applicable under 3504(h)
Vern Burkholder, (202) 447-6932.

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 87-24959 Filed 10-27-87; 8:45 am]

BILLING CODE 3410-01-M

Soil Conservation Service

Rhodes Creek West Critical Area Treatment RC&D Measure, KY

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact/environmental assessment.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil

Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Rhodes Creek West Critical Area Treatment RC&D Measure, Daviess County, Kentucky.

FOR FURTHER INFORMATION CONTACT: T. Allan Heard, Assistant State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, KY 40504, telephone: 606–233–2747.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Randall W. Giessler, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing gully erosion and sedimentation and water disposal problems on ten acres of land along one mile of Rhodes Creek West located at the west city limits of Owensboro, Kentucky. The planned works of improvement include: shaping of existing gullies, reconstruction of channel berm, grade control structures, and permanent vegetative cover on stream banks and berms.

The Finding of No Significant Impact/Environmental Assessment (FONSI/EA) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies, and interested parties. A limited number of copies of the FONSI/EA are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Randall W. Giessler,

State Conservationist.

Date: October 9, 1987.

[FR Doc. 87–24893 Filed 10–27–87; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

National Bureau of Standards

[Docket No. 70609–7109]

Proposed Federal Information Processing Standard (FIPS) for GOSIP

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of proposed Federal Information Processing Standard for Government Open Systems Interconnection Profile (GOSIP).

SUMMARY: A Federal Information Processing Standard (FIPS) adopting the Government Open Systems Interconnection Profile (GOSIP) is proposed for Federal agency use. Developed by an interagency group, GOSIP defines a common set of data communication protocols which enable computer systems developed by different vendors to interoperate and enable the users of different applications on these systems to exchange information. These Open Systems Interconnection (OSI) protocols were adopted by the International Organization for Standardization (ISO) and the Consultative Committee on International Telephone and Telegraph (CCITT). GOSIP is based on agreements reached by vendors and users of computer networks participating in the National Bureau of Standards (NBS) Workshop for Implementors of Open Systems Interconnection.

Prior to submission of this proposed standard to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section, GOSIP, which references protocols for the open systems environment. Only the announcement section of the standard is provided in this notice. Interested parties may obtain a copy of GOSIP from the Standards Processing Coordinator (ADP), Institute for Computer Sciences and Technology, Technology Building, Room B–64, National Bureau of Standards, Gaithersburg, MD 20899, telephone (301) 975–2816.

DATE: Comments on this proposed FIPS must be received on or before January 26, 1988.

ADDRESS: Written comments concerning the adoption of GOSIP as a FIPS should be sent to: Director, Institute for Computer Sciences and Technology, ATTN: GOSIP, Technology Building, Room B–154, National Bureau of Standards, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Gerard F. Mulvenna, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, telephone (301) 975–3631.

Ernest Ambler,

Director.

Date: October 21, 1987.

Federal Information Processing Standards Publication ____

(date)

Announcing the Standard for Government Open Systems Interconnection Profile (GOSIP)

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), and as implemented by Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard

Government Open Systems Interconnection Profile (GOSIP).

Category of Standard

Hardware and Software Standards, Computer Network Protocols.

Explanation

This Federal Information Processing Standard adopts the Government Open Systems Interconnection Profile (GOSIP). GOSIP defines a common set of data communication protocols which enable systems developed by different vendors to interoperate and enable the users of different applications on these systems to exchange information. These Open Systems Interconnection (OSI) protocols were developed by international standards organizations, primarily the International Organization for Standardization (ISO) and the

Consultative Committee on International Telephone and Telegraph (CCITT). GOSIP is based on agreements reached by vendors and users of computer networks participating in the National Bureau of Standards (NBS) Workshop for Implementors of Open Systems Interconnection.

Approving Authority

Secretary of Commerce.

Maintenance Agency

U.S. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index

a. Stable Implementation Agreements for Open Systems Interconnection Protocols, NBS Workshop for Implementors of Open Systems Interconnection, to be published.

Related Documents

Related documents are listed in the Reference Section of the GOSIP document.

Objectives

The primary objectives of this standard are:

—to achieve interconnection and interoperability of computers and systems that are acquired from different manufacturers in an open systems environment
—to reduce the costs of computer network systems by increasing alternative sources of supply
—to facilitate the use of advanced technology by the Federal government
—to stimulate the development of commercial products compatible with Open Systems Interconnection (OSI) standards

Specifications

GOSIP (affixed).

Applicability

GOSIP is to be used by Federal government agencies when acquiring computer network products and services and communications systems or services that provide equivalent functionality to the protocols defined in the GOSIP documents. Currently, GOSIP supports the Message Handling Systems and File Transfer, Access and Management applications. GOSIP also supports interconnection of the following network technologies: CCITT Recommendation X.25; Carrier Sense Multiple Access with Collision Detection (IEEE 802.3); Token Bus (IEEE 802.4); and Token Ring (IEEE 803.5). Additional applications and network technologies will be added to later versions of the GOSIP document.

Implementation

This standard is effective (six months after date of publication of final document in the **Federal Register**). For a period of eighteen (18) months after the effective date, agencies are permitted to acquire alternative protocols which provide equivalent functionality to the GOSIP protocols. Agencies are encouraged to use this standard for solicitation proposals for new network products and services to be acquired after the effective date. This standard is mandatory for use in all solicitation proposals for new network products and services to be acquired eighteen (18) months after the effective date. OSI protocols providing additional functionality will be added to GOSIP as implementation specifications for these protocols are developed by the NBS Workshop for Implementors of OSI. For a period of eighteen months after these new protocols are included in GOSIP, agencies are permitted to acquire alternative protocols which provide equivalent functionality. After the eighteen month period, the new protocols should be cited in solicitation proposals when systems to be acquired provide equivalent functionality to the protocols defined in the GOSIP document.

For the indefinite future, agencies will be permitted to buy network products in addition to those specified in GOSIP and its successor documents. Such products may include other non-proprietary protocols, proprietary protocols, and features and options of OSI protocols which are not included in GOSIP.

The National Bureau of Standards is developing a program to accredit testing organizations for specific tests or types of tests for computer products and services. Information on these tests and test procedures will be made available in the future. Until the tests and test procedures are available, government agencies acquiring networks and services in accordance with this standard may wish to require testing for conformance, interoperation, and performance. The tests to be administered and the testing organization are at the discretion of the agency Acquisition Authority. Guidance on testing for GOSIP specifications is contained in Section 2 of the GOSIP document.

Waivers

Heads of agencies may waive the requirements of this standard in instances where it can be clearly demonstrated that there are significant performance or cost advantages to be gained and when the overall interests of the Federal government are best served by granting the waiver. Waivers may be requested for special purpose networks which are not intended to interoperate with other networks. Waivers may also be requested for products supporting network research.

A request for waiver generated within an agency shall include:

a. A description of the existing or planned ADP system for which the waiver is being requested,

b. A description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and

c. A justification for the waiver, including a description and discussion of the significant performance or cost disadvantages that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

Agency heads may act only upon written waiver requests. Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). Within thirty (30) days of approving a waiver, a copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899. Also, a notice of the waiver determination shall be published in the *Commerce Business Daily.*

A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying document(s), with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

Special Information

The appendices to the GOSIP specification describe advanced requirements for which adequate profiles have not yet been developed. Federal government priorities for meeting these requirements and the expected dates that work on these priorities will be completed are also provided. As these work items are addressed and completed by the NBS Workshop for Implements of OSI, addenda will be inserted into the GOSIP document.

Where to Obtain Copies

Copies of this publication are for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication _____ (FIPSPUB _____), and title. Specify microfiche if desired. Payment may be made by check, money order, or NTIS deposit account.

[FR Doc. 87-24931 Filed 10-27-87; 8:45 am]
BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

[P2T]

Marine Mammals; Issuance of Permit; Sea World, Inc.

On August 14, 1987, notice was published in the **Federal Register** (52 FR 30422) that an application has been filed by Sea World, Inc. 1720 South Shores Road, San Diego, California 92109, for a permit to import one (1) killer whale (*Orcinus orca*) from Zeedierepark Harderwijk, Holland for public display.

Notice is hereby given that on October 21, 1987, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) the National Marine Fisheries Service issued a permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805, Washington, DC 20009;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415.

Date: October 21, 1987.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87-24955 Filed 10-27-87; 8:45 am]
BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 7-042,086
Subtiller
SN 7-058,054
Synthetic Gene For Acyl Carrier Protein
SN 7-059,988
Method to Obtain Intact, Viable Protoplasts from Pollen Grains
SN 7-062,841
Method and Apparatus for Stimulating Plant Growth
SN 7-063,357
Stable Crystalline Cellulose III Polymorpha
SN 7-068,498
Oxidation Process to Decrease Free Formaldehyde in Durable Press Finishing with Carbamate Agents
SN 7-072,2O1
Encapsulation by Entrapment Within Matrix of Unmodified Starches Having Various Proportions of Linear and Branched Chain Components
SN 7-075,169
Process For Dyeing Flame Retardant Fabrics
SN 7-092,100
Control of Jimsonweed

Department of Commerce

SN 6-838,748 (4,694,230)
Micromanipulator System
SN 6-936,305 (4,692,280)
Purification of Fish Oils

Department of Health and Human Services

SN E-313-87
Enhancing Drug Delivery To the Brain
SN E-66-87
Multistage Mixer-Settler Centrifuge
SN E-97-87
Administration of Steroid Hormones
SN 6-763,657 (4,690,915)
Adoptive Immunotherapy As A Treatment Modality In Humans
SN 6-802,680 (4,692,463)
Antiinflammatory 2,3-Didemethylcolchicine and Additional Derivatives
SN 6-862,111 (4,690,131)
Medical Apparatus
SN 7-076,734
New Synthetic Bioactive Compounds

Department of Interior

SN 6-620,665
Acid Leaching Of Ores With An Agglomeration Pretreatment
SN 6-623,753 (4,692,875)
Metal Alloy Identifier
SN 6-718,975
A Solid State Apparatus For Imaging With Improved Resolution
SN 6-825,42l
Low Temperature Chlorination Of Perovskite and Its Derivatives To Produce Titanium Tetrachloride
SN 6-832,628
Use of Soluble Additives To Improve High-Temperature Properties Of MgO Refractories
SN 6-838,491
Electrode Assembly For Molten Metal Production From Molten Electrolytes
SN 6-848,055
Method For Producing Ammonium Sulfide, Ammonium Bisulfide or Mixtures Thereof, Ammonium Polysulfides, Ammonium Thiosulfate and Elemental Sulfur
SN 6-876,502
Method For Recovery Of Metal Values From Secondary Copper Smelter Flue Dusts Using An Ammonium Carbonate-Ammonium Hydroxide System
SN 6-893,427
Bubble Generator
SN 6-901,359
Supplemental Parameters For Automation Of Spark Testing
SN 6-904,066
Releasable Lock Mechanism
SN 6-907,341
Induction Slag Reduction Process For Making Titanium
SN 6-939,390
Use of Multivalent Surface Conditioners To Improve The Coal Wetting Performance Of Anionic Surfactants
SN 6-946,470
Recycling Superalloy Scrap By Vapor Phase Embrittlement

SN 7-002,595
Stereoscopic Camera Slide Bar
SN 7-005,041
Isoelectric Drilling Method
SN 7-021,271
Mobile Lifting Jack
SN 7-025,252
Supercritical Fluid Metal Halide Separation Process
SN 7-055,222
Enhancement of Titanium-Aluminum Alloying By Ultrasonic Treatment
SN 7-059,892
Method and Apparatus For Measuring Surface Density Of Explosive and Inert Dust In Stratified Layers
SN 7-068,083
Method of Recovering Sulfur From Solid Catalysts

Department of the Air Force

SN 6-576,081 (4,668,579)
Interstitially Protected Oxidation Resistant Carbon-Carbon Composite
SN 6-607,089 (4,668,909)
Piezoelectric Material Testing Method and Apparatus
SN 6-705,816 (4,662,860)
Telescoping Low Vibration Pulling Mechanism For Czochralski Crystal Growth
SN 6-708,910 (4,668,896)
Linear Geometry Thyratron
SN 6-743,338 (4,667,090)
Synthetic Aperture Milti-Telescope Tracker Apparatus
SN 6-744,593 (4,668,916)
Liquid Crystal Non-Destructive Inspection of Non-Ferrous Metals
SN 6-753,504 (4,669,042)
Stepless Pulse Count Switching
SN 6-762,888 (4,665,792)
Missile Longitudinal Support Assembly
SN 6-763,576 (4,667,103)
Universal Wavefront Sensor Apparatus
SN 6-788,188 (4,668,869)
Modulated Optical Energy Source
SN 6-788,268 (4,674,710)
Automatic Formation Turns
SN 6-804,191 (4,668,317)
Damaged Radar Radome Repair Method
SN 6-807,426 (4,663,425)
Ethynyl-Containing Aromatic Polyamide Resin
SN 6-817,714 (4,662,216)
Rocket Exhaust Probe
SN 6-819,322 (4,667,002)
Phenylquinoxaline Resin Compositions
SN 6-833,640 (4,667,600)
Safe/Arm Explosive Transfer Mechanism
SN 6-844,636 (4,668,165)
Super Gripper Variable Vane Arm
SN 6-870,045 (4,667,144)
High Frequency, High Voltage Mosfet Isolation Amplifier
SN 6-914,410 (4,667,504)
Flow Through Device For Determination Of the Penetration Rate Of Chemicals Across Biological Membranes In Vitro
SN 7-024,447
Thermionic Reactor Module With Thermal Storage Reservoir
SN 7-056,864
Melt-Castable Explosive Composition
SN 7-066,292
Pseudo Uniphase Charge Coupled Device and Method

Department of the Army

SN 6-902,712
Helicopter Soft Snow Landing Aid
SN 7-072,383
Method of Making A Low Aging Piezoelectric Resonator
SN 7-082,776
Amorphous Cathode Material For Use In Lithium Electrochemical Cell And Lithium Electrochemical Cell Including The Amorphous Cathode Material
SN 7-082,880
Two Part Buckle
SN 7-082,881
Vehicle Transport Device
SN 7-091,697
Method of Comminuting Rare Earth Magnet Alloys Into Fine Particles

Tennessee Valley Authority

SN 6-889,011 (4,676,822)
Fluid Fertilizers Containing Thiophosphoryl Triamide

[FR Doc. 87-24879 Filed 10-27-87; 8:45 am]
BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License; Calcol, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Calcol, Inc. having a place of business in Beachwood, OH and exclusive right in the United States to manufacture, use, and sell products embodied in the inventions entitled "5-Deoxy-5-(Isobutylthio)-3-Deazaadenosine" U.S. patent 4,210,639 and "3-Deazaadenosine." U.S. patent 4,148,888. The patent rights in these inventions are assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing an will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

This notice supersedes the notice published on July 28, 1987 (52 FR 28183).

Inquiries, comments and other materials relating to the intended license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 87-24880 Filed 10-27-87; 8:45 am]
BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in India

October 22, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 29, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 343-6494. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the restraint limits for Categories 313 and 315, for the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. As a result, the limits for Categories 313 and 315, which are currently filled will, re-open.

Background

A CITA directive dated April 7, 1987 (52 FR 11723) established limits for certain specified categories cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the agreement

year which began on January 1, 1987 and extends through December 31, 1987. Pursuant to a request from the Government of India and under the terms of the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of February 6, 1987, between the Governments of the United States and India, Categories 313 and 315 are being increased by application of swing and carryforward. The reduction in other categories' limits to compensate for the swing applied to Categories 313 and 315 are reflected in a separate directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 22, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on April 7, 1987 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on October 29, 1987, the directive of April 7, 1987 is amended to include adjusted restraint limits for the following categories, under the terms of the bilateral textile agreement of February 6, 1987 [1]

Category	Adjusted 12-mo limit [1]
313	22,035,000 square yards.
315	9,040,000 square yards.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-24929 Filed 10-27-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mexico

October 22, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 29, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 535-9481. For information on embargoes and quota reopenings please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the limit for cotton and man-made fiber textile products in Category 341/641, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. As a result, the limit for Category 341/641, which is currently filled, will reopen.

Background

On December 5, 1986, a notice was published in the **Federal Register** (51 FR 43960), which announced import restraint limits for certain cotton, wool and man-made fiber textile products, including Category 341/641, produced or manufactured in Mexico and exported during the current agreement year which began on January 1, 1987 and extends through December 31, 1987. The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, between the Governments of the United States and the United Mexican States, under the terms of which these limits were established, also includes provisions for swing and the carryover of shortfalls from the previous agreement year in certain categories (carryover). Under the foregoing provisions of the bilateral agreement and at the request of the Government of the United Mexican States, the limit established for Category 341/641 is being increased by application of swing and carryover for goods exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 22, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on November 28, 1986,

[1] The provisions of the bilateral agreement, provide, in part, that: (1) Group and specific limits may be exceeded by designated percentages for swing, carryover and carryforward, and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on Oct. 29, 1987, the directive of November 28, 1986, is hereby further amended to adjust the previously established limit for cotton and man-made fiber textile products in Category 341/641, as provided under the terms of the bilateral agreement of February 26, 1979, as amended and extended[1].

Category	Adjusted 1987 limit.[1]
341/641	695,713 dozen of which not more than 250,425 dozen shall be in Category 341pt./641.[2]

[1] The limit has not been adjusted to account for any imports exported after December 31, 1986.

[2] In Category 341pt./641., only TSUSA numbers 384.4608, 384.4610, 384.4612, 384.9110 and 384.9120.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-24930 Filed 10-27-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in the Socialist Federal Republic of Yugoslavia

October 22, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 23, 1987. For further information contact Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

On December 30, 1986 a notice was published in the **Federal Register** (51 FR 47052), which announced import restraint limits for certain cotton, wool and man-made fiber textile products, including Category 443, which is a sublevel of Category 443/643, produced or manufactured in the Socialist Federal Republic of Yugoslavia and exported during the current agreement year which began on January 1, 1987 and extends through December 31, 1987. The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 26 and 27, 1978, as amended as extended, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia, under the terms of which this limit was established, also includes provisions for the carryover of shortfalls from the previous year in certain categories (carryover).

Under the foregoing provisions of the bilateral agreement, the limit established for sublevel Category 443 is being increased for carryover for goods exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 28068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 22, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 23, 1986 by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Socialist Federal Republic of Yugoslavia and exported during the period which began on January 1, 1987 and extends through December 31, 1987.

Effective on October 23, 1987, the directive of December 23, 1986 is hereby amended to adjust the previously established sublevel for wool textile products in Category 443, which is a sublevel of Category 443/643, to a level of 9,435 dozen [1], as provided under the terms of the bilateral agreement of October 26 and 27, 1978, as amended and extended. [2]

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-24853 Filed 10-27-87; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

New York Mercantile Exchange Proposed Option Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity option contract.

SUMMARY: The New York Mercantile Exchange, Inc. ("NYMEX") has applied for designation as a contract market in options on its New York Harbor unleaded regular gasoline futures contract. The Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

[1] The agreement provides, in part, that: (1) Specific limits and sublimits may be exceeded by not more than seven percent for swing in any agreement period; (2) these same limits may be adjusted for carryforward and carryover up to 11 percent of the applicable category limit or sublimit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1986.

[2] The agreement provides, in part, that: (1) Carryover and carryforward may not exceed 11 percent and swing may not exceed 6 percent of cotton and man-made fiber and 5 percent of wool; (2) special shift up to 10 percent may be available in Categories 340/640 and 341/641.

DATE: Comments must be received on or before November 27, 1987.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the NYMEX New York Harbor unleaded regular gasoline futures option contract.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254–7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed futures option contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K, Street NW., Washington, DC 20581. Copies of the terms and condition can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the NYMEX in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and condition of the proposed futures option contract, or with respect to other materials submitted by the NYMEX in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on October 22, 1987.

Paula Tosini,

Director, Division of Economic Analysis.

[FR Doc. 87–24912 Filed 10–27–87; 8:45 am]

BILLING CODE 6351–01–M

Financial Products Advisory Committee; Meeting

This is to give notice pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, 10(a) and 41 CFR 101–6.101(b), that the Commodity Futures Trading Commission's Financial Products Advisory Committee will conduct a public meeting on Wednesday, November 18, 1987, at the Commodity Futures Trading Commission in Washington, DC. The meeting will be held between 10:00 a.m. and 3:30 p.m. in the Commission's Public Meeting Room, which is located on the fifth floor of the building. The agenda will consist of:

1. Discussion of arbitrage between equity index futures contracts and the stock market, and the relationship of index arbitrage to equity market prices.

2. Discussion of portfolio insurance (dynamic hedging) and the relationship to equity market prices.

3. Discussion of proposals to distinguish control from ownership when aggregating positions for speculative limit purposes.

4. Other Committee business:

a. Discussion of agenda items and scheduling for future Committee meetings; and

b. Any other business that may properly come before the Committee.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on financial products issues. The purposes and objectives of the Advisory Committee are more fully set forth at 52 FR 17313 (May 7, 1987).

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Robert R. Davis, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Commodity Futures Trading Commission Financial Products Advisory Committee, c/o Maureen Donley-Hoopes, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, to be received prior to the date of the meeting. Members of the public who wish to make oral statements should also inform Ms. Donley-Hoopes in writing at the above address at least three days prior to the meeting. Provision will be made, if time permits, for an oral presentation of reasonable duration.

Issued in Washington, DC, the 22nd day of October, 1987, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 87–24911 Filed 10–27–87; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Systems Management College, Board of Visitors; Meeting

AGENCY: Defense Systems Management College, DOD.

ACTION: Board of Visitors meeting.

SUMMARY: A meeting of the Defense Systems Management College (DSMC) Board of Visitors will be held in Building 226, Fort Belvoir, Virginia, on Tuesday, November 24, 1987, from 0830 until 1530. The agenda will include a review of accomplishments related to the system acquisition education, system acquisition research, and information collection and dissemination missions. It will also include a review of the DSMC plans, resources and operations. The meeting is open to the public; however, because of limitations on the space available, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Mrs. Joyce Reniere on (703) 664–6489.

Thomas J. Condon,

Acting Division Chief, Directives Division, Department of Defense.

[FR Doc. 87–24908 Filed 10–27–87; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Advisory Panel on ROTC Affairs; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following panel meeting:

Name of Panel: Army Advisory Panel on ROTC Affairs.

Place: Norfolk State University, Norfolk, VA.

Date of Meeting: February 10–11, 1988.

Time:

8 a.m.–5 p.m., Febuary 10, 1988

9 a.m.–11:45 a.m., February 11, 1988

Proposed Agenda: The meeting will consist of briefings and discussions. The meeting is open to the public. Any interested person may appear before or file a statement with the Panel at the time, and in the manner, permitted by

the Panel. It is projected that the following events will take place during the meeting. After opening remarks by Major General Robert E. Wagner and the chairman of the Panel, Dr. Harrison Wilson, any administrative matters requiring attention will be resolved. The meeting will then proceed with a variety of recent ROTC Cadet Command initiatives. Major General Wagner will provide an overview of the significant changes since the July 1987 meeting, at Fort Knox, Kentucky. Briefings on February 10 and 11 will include: Expansion of the ROTC Mission Management System Deployment Plan, Nursing Program Update, Advertising Strategy, Precommissioning Literacy Standards, Marketing Operation Citizen Soldier, Spring Gold, Green to Gold Update, Camps Update, and Cadet Accident/Liability Coverage. On February 10, 1988, the Army Advisory Panel on ROTC Affairs will meet in general session to formulate recommendations, consider progress made on previous Panel recommendations and to select a date for the summer panel meeting.

For the Commander.

Robert S. Cox,

Colonel, General Staff, Chief, Cadet Training Division.

[FR Doc. 87-24881 Filed 10-27-87; 8:45 am]

BILLING CODE 3710-08-M

Board of Visitors, United States Military Academy; Open Meeting

In accordance with section 10(a)(20) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.

Dates of Meeting: December 1-4, 1987.

Place of Meeting: West Point, New York.

Start Time of Meeting: 9:00 A.M., December 2, 1987.

Proposed Agenda: Discussion of the following items: Women and Minorities at West Point, Impact of Federal Reassessment on the Highland Falls School District and Child Care Center Suit; 2002 Long Range Planning; Cost, Price, and Worth of West Point; Cadet Honor Code and System; Cadet Pay; and Cadet Appreciation of the Constitution.

All proceedings are open. For further information, contact Colonel Larry Donnithorne, United States Military Academy, West Point, New York 10996-5000, (914) 938-4723.

For the Board of Visitors.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 87-24874 Filed 10-27-87; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Technology Services, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before November 27, 1987.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732-3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: October 23, 1987.

Carlos U. Rice,

Director for Information Technology Services.

Office of Postsecondary Education

Type of Review: Extension

Title: Performance Report for the Minority Science Improvement Program

Agency Form Number: ED 0007A

Frequency: Annually

Affected Public: Non-profit institutions

Reporting Burden: Responses: 40; *Burden Hours:* 200

Recordkeeping: Recordkeepers: 40; *Burden Hours:* 200

Abstract: This performance report is used by institutions of higher education that have participated in the Minority Science Improvement Program. The Department uses the information collected to assess the accomplishments of project goals and objectives, and to aid in effective program management.

Office of Educational Research and Improvement

Type of Review: Extension

Title: The 1987-88 National Survey of Postsecondary Faculty

Agency Form Number: G50-33P

Frequency: Triennially

Affected Public: Individuals or households; no-profit institutions

Reporting Burden: Responses: 960; *Burden Hours:* 1200

Recordkeeping: Recordkeepers: 0; *Burden Hours:* 0

Abstract: This questionnaire will collect lists of faculty and departmental chairs for the 1987-88 National Survey of Postsecondary Faculty. The Department will use these lists to draw the sample of faculty.

[FR Doc. 87-24951 Filed 10-27-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

National Science Foundation

DEPARTMENT OF JUSTICE

Agreement Between the National Science Foundation and the U.S. Department of Education To Delegate Certain Civil Rights Compliance Responsibilities for Elementary and Secondary Schools and Institutions of Higher Education

A. Purpose

Section 1-207 of Executive Order 12250 authorizes the Attorney General to initiate cooperative programs among Federal agencies responsible for enforcing Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, as amended, and similar provisions of Federal law prohibiting discrimination on the basis of race, color, national origin, sex, handicap, or religion in programs or activities receiving Federal financial assistance.

This agreement will promote consistent and coordinated enforcement of covered non-discrimination provisions as required in the Coordination of Enforcement of Non-discrimination in Federally Assisted Programs (28 CFR 42.401-42.415), increase the efficiency of compliance activity, and reduce burdens on recipients, beneficiaries and Federal agencies by consolidating compliance responsibilities, by eliminating duplication in civil rights reviews and data requirements, and by promoting consistent application of enforcement standards.

B. Delegation

By this agreement the National Science Foundation designates the Department of Education as the agency responsible for specific civil rights compliance duties, as enumerated below, with respect to elementary and secondard schools and institutions of higher education. Responsibility for the following covered non-discrimination provisions are delegated:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000d-4); and

2. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

This agreement specifies the duties to be performed by each agency. It does not alter the requirements of the joint Department of Justice/Equal Employment Opportunity Commission regulation concerning procedures for handling complaints of employment discrimination filed against recipients of Federal financial assistance. 28 CFR 42.601-42613, 29 CFR 1691.1-1697.13, 48 FR 3570 (January 25, 1983). Complaints covered by that regulation filed with the National Science Foundation against a recipient of Federal financial assistance solely alleging employment discrimination against an individual are to be referred directly to the EEOC by the National Science Foundation.

C. Duties of the Department of Education

The National Science Foundation assigns the following compliance activities and duties to the Department of Education with respect to primary and secondary schools and institutions of higher education. Specifically, the Department of Education shall:

1. Maintain current files on all activities undertaken pursuant to this agreement and on the compliance status of applicants and recipients with respect to their programs or activities receiving Federal financial assistance resulting from preapproval and postapproval reviews, complaint investigations, and actions to resolve noncompliance. A summary of these activities and the compliance status of applicants and recipients shall be reported at least at the end of every fiscal year to the National Science Foundation.

2. Develop and use information for the routine, periodic monitoring of compliance by primary and secondary schools and institutions of higher education with respect to their programs or activities receiving Federal financial assistance subject to this agreement.

3. Perform, upon request by the National Science Foundation, preapproval reviews for which supplemental information or field reviews are necessary to determine compliance.

4. Conduct an effective program of postapproval reviews of recipients with respect to their programs or activities receiving Federal financial assistance subject to this agreement.

5. Receive complaints alleging that recipients subject to this agreement have discriminated in violation of covered nondiscrimination provisions in their programs or activities receiving Federal financial assistance, attempt to obtain information necessary to make complaints complete, and investigate complete complaints.

6. Issue a written letter of findings of compliance or a letter of findings of noncompliance that (a) advises the recipients and, where appropriate, the complainant of the results of the postapproval review or complaint investigation, (b) provides recommendations, where appropriate, for achieving voluntary compliance, and (c) offers the opportunity to engage in negotiations for achieving voluntary compliance. The governor of the state in which the applicant or recipient is located will be notified if the letter of findings of compliance is made pursuant to a statute requiring that the governor be given an opportunity to secure compliance by voluntary means. The Department of Education promptly shall provide a copy of its letter of findings to the National Science Foundation and to the Assistant Attorney General for Civil Rights.

7. Conduct, after a letter of findings of noncompliance, negotiations seeking voluntary compliance with the requirements of covered non-discrimination provisions.

8. (a) If compliance cannot be voluntarily achieved, and the Department of Education does not fund the applicant or recipient, refer the matter to the National Science Foundation for its own independent action and notify the Assistant Attorney General for Civil Rights of the referral. (b) If compliance cannot be achieved and both the Department of Education and the National Science Foundation fund the applicant or recipient, initiate formal enforcement action. When the Department of Education initiates formal enforcement action by providing the applicant or recipient with an opportunity for an administrative hearing, provide the National Science Foundation with an opportunity to participate as a party in a joint administrative hearing. When the Department of Education initiates formal enforcement action by referring the matter to the Department of Justice for appropriate judicial action, notify the National Science Foundation of the referral.

9. Notify the National Science Foundation and the Assistant Attorney General for Civil Rights of the outcome of the hearing, including the reasons for finding the applicant or recipient in noncompliance, and any action taken against the applicant or recipient.

D. Duties of the National Science Foundation

The National Science Foundation shall: 1. Issue and provide to the Department of Education all regulations, guidelines, reports, orders, policies, and other documents that are needed for recipients to comply with covered non-discrimination provisions and for the Department of Education to administer its responsibilities under this agreement.

2. Provide the Department of Education with information, technical assistance, and training necessary for the Department of Education to perform the duties delegated under this agreement. This information shall

include, but is not limited to, a list of recipients receiving Federal financial assistance from the National Science Foundation, the types of assistance provided, compliance information solely in the National Science Foundation's possession or control, and data on program eligibility and/or actual participants in assisted programs or activities.

3. Perform preapproval reviews of applicants for assistance, as required by 28 CFR 42.407(b), that do not require supplemental information or field reviews. The reviews may require information to be supplied by the Department of Education. If the National Science Foundation requests the Department of Education to undertake an onsite review because it has shown it has reason to believe discrimination is occurring in a program or activity that is either receiving Federal financial assistance or that is the subject of an application, the National Science Foundation shall supply information necessary for the Department of Education to undertake such a review.

4. Refer all complaints alleging discrimination under covered non-discrimination provisions filed with the National Science Foundation against a recipient subject to this delegation and determine, if possible, whether the program involved receives Federal financial assistance from the delegating agency.

5. Where the Department of Education has notified the applicant or recipient in writing that compliance cannot be achieved by voluntary means and the Department of Education has referred the matter to the National Science Foundation, make the final compliance determination and:

(a) If the National Science Foundation wishes to initiate formal enforcement action by providing the applicant or recipient with an opportunity for an administrative hearing, notify the Department of Education if the National Science Foundation will either join as a party in the Department of Education's hearing or will conduct its own administrative hearing.

(b) When the National Science Foundation initiates formal enforcement action by referring the matter to the Department of Justice for appropriate judicial action, notify the Department of Education of the referral.

(c) If the National Science Foundation conducts its own hearing, notify the Department of Education and the Assistant Attorney General for Civil Rights of the outcome of the hearing, including the reasons for finding the applicant or recipient in noncompliance, and any action taken against the applicant or recipient. The National Science Foundation may request the Department of Education to act as counsel in its administrative hearing.

(d) If the National Science Foundation neither initiates steps to deny or terminate Federal financial assistance nor refers the matter to the Department of Justice, notify the Department of Education and the Assistant Attorney General for Civil Rights, in writing, within 15 days after notification from the Department of Education that voluntary compliance cannot be achieved.

E. Effect on Prior Delegations

This agreement supersedes and replaces the delegation agreements regarding elementary and secondary schools and institutions of higher education between the National Science Foundation and the Department of Health, Education, and Welfare published in the **Federal Register** at 32 FR 4094 (March 15, 1967).

F. Redelegation

Duties delegated herein to the Department of Education may be redelegated to the Department of Health and Human Services or the Veterans Administration. The Department of Education shall notify the National Science Foundation of any such redelegation prior to its effective date.

G. Approval

This agreement shall be signed by the Assistant Attorney General for Civil Rights. It shall be signed by both parties and become effective 30 days from publication in the **Federal Register.**

H. Termination

This agreement may be terminated by either agency 60 days after notice to the other agency and to the Assistant Attorney General for Civil Rights.

Dated: June 10, 1986.

Erich Bloch,

Director of the National Science Foundation.

Dated: May 22, 1987.

William J. Bennett,

Secretary of the Department of Education.

Dated: July 13, 1987.

William Bradford Reynolds,

Assistant Attorney General, Civil Rights Division, Department of Justice.

[FR Doc. 87-24952 Filed 10-27-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. OFU-048]

Energy Supply and Environmental Coordination Act; Acceptance of Application for Rescission of a Prohibition Order Submitted by the Wisconsin Public Service Corp. for a Certain Prohibition Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE)[1] hereby gives notice that acting under the authority granted to it in section 2(f) of the Energy Supply and Environmental Coordination Act of 1964 (ESECA), as amended by (15 U.S.C. 792(f) and implemented by 10 CFR 303.130(b)), it has accepted and is considering a request by the Wisconsin Public Service Corporation (WPSC or the Company) to rescind the Prohibition Order issued on June 30, 1975, to the following powerplant:

Owner: Wisconsin Public Service Corp.
Docket No.: OFU-048
Generating Station: Weston
Unit No.: 2
Location: Rothschild, Wisconsin

ERA is taking this action in accordance with the provisions of 10 CFR Part 303, Subpart J ("Modification on Rescission of Prohibition Orders and Construction Orders") of the ESECA regulations. Detailed information for the proceeding is provided in the **SUPPLEMENTARY INFORMATION** section below.

The public file containing a copy of this Notice of Acceptance and Availability of Certification and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 10585, Monday through Friday, 9:00 a.m. to 4:00 p.m.

DATES: Comments on DOE's intention to consider the requested rescission of the above listed Prohibition Order is invited. Written comments are due on or before December 14, 1987. A request for public hearing must also be made within this 45-day public comment period. In

[1] Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration (FEA) to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

making its decision regarding the requested rescission action, DOE will consider all relevant information submitted or otherwise available to it.

Any information considered to be confidential by the person furnishing it must be so identified at the time of submission in accordance with 10 CFR 303.9(f). DOE reserves the right to determine the confidential status of the information and to treat it in accordance with that determination.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing should be submitted to the Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, Room GA-093, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. OFU 048 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Office of Fuels Programs, Economic Regulatory Administration 1000 Independence Avenue, SW., Room GA-093, Washington, DC 20585, Telephone (202) 586-4523

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy 1000 Independence Avenue, SW., Room GA-113, Washington, DC 20585, Telephone (202) 586-6947

SUPPLEMENTARY INFORMATION:

On June 30, 1975, the Federal Energy Administration (FEA) issued a Prohibition Order prohibiting Weston Unit 2 from burning natural gas or petroleum products as its primary energy source. The Prohibition Order became effective on June 13, 1977, pursuant to a Notice of Effectiveness (NOI) issued by FEA on that date. ERA issued an Amended NOI on December 21, 1978, deleting the termination date of December 31, 1978 for the Prohibition Order set forth in the original NOI. The amendment served to extend the effectiveness of the Prohibition Order indefinitely.

On July 7, 1987, WPSC submitted an Application for Rescission of Prohibition Orders to ERA regarding the above enumerated generating station unit. The Petitioner maintains that the rescission of the Prohibition Order for Weston No. 2 is warranted by significantly changed circumstances, a substantial change in the facts or circumstances upon which the Prohibition Order was based. Placed in service in 1960, Weston No. 2 located near Rothschild, Wisconsin has the capability to burn both coal and natural gas, either separately or together to generate power. At maximum generation the unit can burn 863 Mcf of natural gas or 70,700 pounds of coal per hour. Using natural gas as the primary energy source its maximum generation capability is approximately 90 megawatts.

The Company believes it would be in the best interest of its ratepayers and of the general public to be able to use natural gas as a primary fuel in the Weston No. 2 generating unit. Natural gas would allow the Company to address the environmental emission limitations facing it in the most cost effective manner. It would also allow the Company to operate the unit in a manner that will maximize its useful life. It is anticipated that gas will not be used as the primary fuel in the Weston No. 2 boiler unless it is needed to meet emission limitations during transitional operating conditions, such as start-up or during load changes, or if the cost of producing electric power would be less if burning gas than if burning coal.

The use of natural gas would have a favorable impact on the useful life expectancy of the plant by reducing wear on coal handling and other relevant equipment, in addition to reducing corrosive effects in the boiler. Natural gas would also be used for flame stabilization reducing the Company's use of petroleum.

WPSC believes that the use of natural gas is both practical and feasible. The Company maintains that its supplier generally has quantities of natural gas available for use by the Company as boiler fuel.

Issued in Washington, DC on October 20, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-24842 Filed 10-27-87; 8:45 am]

BILLING CODE 6450-01-D

[ERA Docket No. 87-39-NG]

Natural Gas Clearinghouse Inc.; Order Extending Blanket Authorization To Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order extending blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued to Natural Gas Clearinghouse Inc. (NGC) an order extending for two years its existing blanket authorization to import Canadian natural gas for sale in the domestic spot market. The order issued in ERA Docket No. 87-39-NG authorizes NGC to import up to 730 Bcf of gas during the period November 1, 1987, through October 31, 1989.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 21, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-24843 Filed 10-27-87; 8:45 am]

BILLING CODE 6450-01-D

Federal Energy Regulatory Commission

[Docket No. EC87-16-000 et al.]

Alamito Co. et al.; Electric Rate and Corporate Regulation Filings

October 21, 1987.

Take notice that the following filings have been made with the Commission:

1. Alamito Company

[Docket No. EC87-16-000]

Take notice that on October 8, 1987, Alamito Company (Alamito) tendered for filing an amendment to its Application filed on June 30, 1987.

Alamito states that it is amending its application in two respects.

(1) To modify the foregoing 1 percent limitation to provide that at no time may Alamito and its subsidiaries hold, own or possess any preferred stock or debt securities of any public utility in an amount greater that 1 percent of the capital stock or funded debt outstanding of the public utility.

(2) To eliminate any concern that Catalyst may somehow be able to use Alamito's ownership of the preferred stock of any utility, together with common or preferred stock which Catalyst may own, for the purpose of exercising control.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Southwestern Public Service Company

[Docket No. ER88-47-000]

Take notice that on October 19, 1987, Southwestern Public Service Company (Southwestern) tendered for filing an

Application for Approval of a Western Systems Power Pool Experimental Sales Benefits Credit Rider proposed to supplement its full requirements, partial requirements and interruptible customers' FERC Electric Service Schedules as follows:

Name of customer	Rate schedule FERC No.
I. Full Requirements Customers	
Bailey County Electric Cooperative	86
Central Valley Electric Cooperative	87
Deaf Smith Electric Cooperative	88
Farmers Electric Cooperative	89
Greenbelt Electric Cooperative	90
Lamb County Electric Cooperative	91
Lea County Electric Cooperative	103
Lighthouse Electric Cooperative	92
Lyntegar Electric Cooperative	93
Midwest Electric Cooperative	105
North Plains Electric Cooperative	99
Rita Blanca Electric Cooperative	98
Roosevelt County Electric Cooperative	95
South Plains Electric Cooperative	96
Swisher Electric Cooperative	97
Texas-New Mexico Electric Cooperative	75
Tri-County Electric Cooperative	100
II. Partial Requirements Customers	
City of Brownfield, Texas	81
City of Floydada, Texas	83
Lubbock Power & Light Company	85
City of Tulia, Texas	101
Texas-New Mexico Power Company	107
III. Interruptible Power Service	
El Paso Electric Company	104

On July 17, 1987 in Docket No. ER87-444-000, the FERC accepted Southwestern's filed amendment to the Western Systems Power Pool (WSPP) experimental tariff to include Southwestern as a member of the WSPP, effective May 1, 1987.

In an Order dated March 12, 1987 in Docket No. ER87-97-001, the FERC accepted experimental rates for filing in the WSPP. The FERC accepted either of two proposed methods of treating revenues as long as a jurisdictional utility proposes a mechanism to insure that at least seventy-five percent of the benefits attributable to an increase in the level of coordination sales under the WSPP, not already reflected in the utility's current requirements rates, are flowed through to the utility's requirements ratepayers.

Southwestern has elected to directly flow through to its requirements customers, on a current basis, seventy-five percent of the benefits derived from coordination sales under the WSPP. The benefits are proposed to be flowed through by use of the rider so that Southwestern's requirements customers will realize immediate benefits from any WSPP transaction in which Southwestern participates and realizes a net benefit.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this document.

3. Carolina Power & Light Company

[Docket No. ER88-45-000]

Take notice that on October 16, 1987, Carolina Power & Light Company (CP&L) tendered for filing a letter agreement with the Public works Commission of the City of Fayetteville, North Carolina pursuant to which the manner of determining the Billing Demand in the Service Agreement between CP&L and Fayetteville will be disregarded as long as the settlement rates to which the parties have agreed in Docket No. ER87-240-000 remain in effect. CP&L has requested that the letter agreement become effective as of September 1, 1987, concurrent with its Rate Schedule RS87-3B which was established by the Settlement Agreement in that proceeding.

Comment date: November 9, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Carolina Power & Light Company

[Docket No. ER88-43-000]

Take notice that on October 16, 1987, Carolina Power & Light Company (Company) tendered for filing the "Agreement Regarding New Resources and Interim Capacity" (NRIC Agreement) dated October 13, 1987, which supplements the Power Coordination Agreement dated July 30, 1981 (1981 PCA), between the Company and the North Carolina Eastern Municipal Power Agency (Power Agency) designated Rate Schedule FERC No. 121.

The NRIC Agreement sets forth certain provisions related to the addition of New Resources, as defined in section 6.1(C)(1) of the 1981 PCA, for the time period 1987 to 1993. The NRIC Agreement provides that the parties shall not exercise or assert certain rights under the 1981 PCA: (1) Each party may have pertaining to the notice, timing, and amount of New Resources Power Agency may add during the term of the NRIC Agreement; and (2) Power Agency may have pertaining to Interim Capacity associated with the jointly owned Harris Unit No. 1. Pursuant to the NRIC Agreement, the Company and Power Agency have entered into the "Power Coordination Agreement—1987A Between North Carolina Eastern Municipal Power Agency and Carolina Power & Light Company for Contract Power from New Resources—Period 1987-1993" (1987A PCA), which is attached to the NRIC Agreement as Appendix A. Under the 1987A PCA, Power Agency and the Company have provided for the terms and conditions applicable to a New Resource that consists of a firm power purchase, contracted for by Power Agency (Contract Power), from South Carolina Public Service Authority (Authority), an agency of the State of South Carolina. Under the 1987A PCA, Power Agency has sole responsibility for arranging for the delivery of power from the New Resource to the Company at the Company's interconnections with the Authority. Power Agency has arranged for this delivery through an agreement with the Authority entitled "Agreement for Contract Power Between South Carolina Public Service Authority and North Carolina Eastern Municipal Power Agency" (Agreement for Contract Power) attached as Exhibit 1987A PCA-II to the 1987A PCA. The planned Commencement Date of the availability for delivery of Contract Power to the Company is December 8, 1987.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Cincinnati Gas & Electric Company

[Docket No. ER87-321-000 and ER87-580-000]

Take notice that on October 19, 1987, Cincinnati Gas & Electric Company (CG&E) tendered for filing an amendment to its filing made with the Commission August 7, 1987. Included with this amendment CG&E tendered for filing proposed changes in its FERC Electric Tariff, First Revised Volume No. 1 which cancel and supersede the rate schedules in said tariff. The proposed changes as amended would decrease revenues from jurisdictional sales and service by $3.5 million. This change in rate schedules is proposed to become effective July 1, 1987.

The reason stated by CG&E for the amendment is:

To supplement its August 1, 1987 filing with the Commission.

Copies of the filing were served upon the Villages of Bethel, Blanchester, Georgetown, Hamersville and Ripley, and the City of Lebanon, municipalities in the State of Ohio; and the Union Light, Heat and Power Company, a wholly owned subsidiary of CG&E, which ultimately serves retail consumers and one wholesale customer within the Commonwealth of Kentucky; and the West Harrison Gas and Electric Company, a wholly owned subsidiary of CG&E, which ultimately serves retail consumers within the State of Indiana, the Public Utilities Commission of Ohio, the Kentucky Public Service Commission and the Indiana Utility Regulatory Commission.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Delmarva Power & Light Company

[Docket No. EL86-11-004]

Take notice that on October 19, 1987, Delmarva Power & Light Company (Delmarva) tendered for filing pursuant to Commission Order dated September 15, 1987, its Report of Compliance.

Delmarva states that it has refunded the excess revenues collected with interest through October 12, 1987. Interest was refunded in accordance with § 35.19a of the Commission's Regulations.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Ogden Martin Systems of Fairfax, Inc.

[Docket No. ER88-48-000]

Take notice that on October 16, 1987, Ogden Martin Systems of Fairfax, Inc. (Ogden Fairfax) tendered for filing with the Federal Energy Regulatory Commission its initial rate schedule and supporting documentation. The rate schedule consists of a unit power agreement between Ogden Fairfax and Virginia Electric and Power Company (Virginia Power). The unit power agreement provides for the sale of the capacity and corresponding energy of a new resource recovery and electric generating facility to be constructed in Lorton, Virginia and owned by Ogden Fairfax.

Ogden Fairfax has requested a waiver of notice requirement to permit filing of the rate schedule more than 120 days prior to its proposed effective date and a petition for waiver of the Commission's regulations inappropriate to qualifying small power producers including cost of service data. Copies of the filing were served upon Virginia Power and the Virginia State Corporation Commission.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Pennsylvania Power & Light Company

[Docket No. ER88-49-000]

Take notice that on October 19, 1987, Pennsylvania Power & Light Company (PP&L) tendered for filing proposed changes to the Power Supply Agreement, dated as of the 12th day of June 1972, between PP&L and the Borough of Perkasie, presently on file with the Commission as PP&L Rate Schedule FPC No. 54. In a September 3, 1987 Supplemental Agreement to the Power Supply Agreement, PP&L has agreed to the installation and parallel operation of a second 12.47 KV supply line from PP&L's system to Perkasie. The second 12.47 KV line is necessary to meet Perkasie's increasing electric needs.

Copies of PP&L's filing have been served upon the Borough of Perkasie and the Pennsylvania Public Utility Commission.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Southwestern Public Service Company

[Docket No. ER88-46-000]

Take notice that on October 19, 1987, Southwestern Public Service Company (Southwestern) tendered for filing a notice of cancellation of Rate Schedule FERC No. 94. Southwestern states that since Northfork Electric Cooperative, Inc. (Northfork) is no longer purchasing wholesale electric service from Southwestern under Rate Schedule FERC No. 94 that the rate schedule should be cancelled to reflect the current service relationship with Northfork.

Copies of the filing were served upon Northfork and the Oklahoma Corporation Commission.

Comment date: November 5, 1987, in accordance with Standard Paragraph E at the end of this document.

10. UtiliCorp United Inc.

[Docket No. ES88-2-000]

Take notice that on October 9, 1987, UtiliCorp United Inc. ("Applicant") filed an application seeking an order under section 204(a) of the Federal Power Act authorizing the Applicant to guarantee obligations of its wholly owned subsidiary, UtilCo Group, in an amount not to exceed $2,500,000, and for exemption from competitive bidding and negotiated placement requirements.

Comment date: November 4, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24910 Filed 10-27-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3283-3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA, (202) 382-2740 (FTS 382-2740).

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Superfund Amendment and Reauthorization Act of 1986 (SARA), Title III, section 305 (b)—Emergency Systems Review. (EPA ICR #1430). New Collection.

Abstract: EPA is required to report to Congress the current status of emergency systems designed to monitor, detect, and prevent accidental releases at facilities producing, using, or storing an extremely hazardous substance. Also, the status of systems used by local governments for providing timely public alert to releases from these facilities is being surveyed. A questionnaire is being used to collect this information.

Respondents: Voluntary Manufacturers, Producers, Users of Certain Chemicals Selected from EXTREMELY HAZARDOUS SUBSTANCE list.

Estimated Annual Burden: 42,285.

Frequency of Collection: One time only.

* * * * *

Comments on the abstract on this notice may be sent to:

Cala Levesque, U.S. Environmental Protection Agency, Office of Standard and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street SW., Washington, DC 20460

and

Marcus Peacock, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3019), 726 Jackson Place NW., Washington, DC 20503.

Date: October 21, 1987.

Daniel J. Fiorino,

Director, Information Regulatory Systems Division.

[FR Doc. 87-24943 Filed 10-27-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50672; FRL-3281-5]

Issuance of Experimental Use Permits; Dow Chemical Co. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits.

464-EUP-78. Extension. Dow Chemical Company, Agricultural Products Department, P.O. Box 1706, Midland, MI 48640-1706. This experimental use permit allows the use of 5 pounds of the herbicide methyl 2-(4-((3-chloro-5-trifluoromethyl)-2-pyridinyl) oxy)phenoxy)propanoate on soybeans to evaluate the control of annual and perennial grasses. A total of 20 acres are involved; the program is authorized only in the States of Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Mississippi, Nebraska, and Tennessee. The experimental use permit is effective from April 17, 1987 to April 17, 1989. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Richard Mountfort, PM 23, Rm. 253, CM#2, (703-557-1830))

279-EUP-109. Extension. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 4,000 pounds of the herbicide 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone on fallow cropland to be planted to wheat to evaluate the control of broadleaf and grassy weeds. A total of 4,000 acres are involved; the program is authorized only in the States of Colorado, Idaho, Kansas, Montana, Nebraska, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The experimental use permit is effective from August 14, 1987 to August 14, 1988. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800)

279-EUP-110. Issuance. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 340 pounds of the insecticide/miticide cyclopropanecarboxylic acid 3-(2-chloro-3,3-trifluoro-1-propenyl)-2,2-dimethyl-2-methyl [1,1'-biphenyl]-3-yl methyl ester on strawberries to evaluate the control of various insects and mites. A total of 425 acres are involved; the program is authorized only in the States of California, Florida, Indiana, Michigan, New Hampshire, New Jersey, North Carolina, Oregon, Pennsylvania, and Washington. The experimental use permit is effective from July 10, 1987 to July 10, 1988. A temporary tolerance for residues of the active ingredient in or on strawberries has been established. (George LaRocca, PM 17, Rm. 204, CM#2, (703-557-2400))

279-EUP-112. Issuance. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 731.25 pounds of the insecticide/miticide cyclopropanecarboxylic acid 3-(2-chloro-3,3-trifluoro-1-propenyl)-2,2-dimethyl-2-methyl[1,1'-biphenyl]-3-yl methyl ester on pears to evaluate the control of various insect pests. A total of 975 acres are involved; the program is authorized only in the States of California, Colorado, Connecticut, Michigan, New York, Ohio, Oregon, Pennsylvania, Texas. Utah, and Washington. The experimental use permit is effective from July 10, 1987 to July 10, 1988. A temporary tolerance for residues of the active ingredient in or on strawberries has been established. (George LaRocca, PM 17, Rm. 204, CM#2, (703-557-2400))

707-EUP-17. Issuance. Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105. This experimental use permit allows the use of 2,000 pounds of the herbicide oxyfluorfen on almonds, pistachios, and walnuts to evaluate the control of weeds. A total of 3,000 acres are involved; the program is authorized only in the State of California. The experimental use permit is effective from September 15, 1987 to September 30, 1988. A permanent tolerance for residues of the active ingredient in or on almonds, pistachios, and walnuts has been established (40 CFR 180.381). (Richard Mountfort, PM 23, Rm. 253, CM#2, (703-557-1830))

201-EUP-76. Extension. Shell Oil Company, One Shell Plaza, P.O. Box 4320, Houston, TX 77210. This experimental use permit allows the use of 1,200 pounds (500 pounds in 1988 and 700 pounds in 1989) of the hybridizing agent azetidine-3-carboxylic acid on barley and wheat to evaluate hybridizing qualities. A total of 1,440 acres are involved; the program is authorized in the States of Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, and Texas. The experimental use permit is effective from August 1, 1987 to August 1, 1989. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136c.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-24573 Filed 10-27-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180744; FRL-3280-6]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 11 States listed below and various States have initiated three crisis exemptions. Also listed is one denial from EPA of a request for a specific exemption from the Mississippi

Department of Agriculture and Commerce. These exemptions, issued during the months of July and August, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific or crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location and telephone number: Room 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of mevinphos on pumpkins to control aphids; August 4, 1987, to October 31, 1987. California had initiated a crisis exemption for this use. (Jim Tompkins)

2. California Department of Food and Agriculture for the use of sethoxydim on dry edible beans to control Johnsongrass; August 28, 1987, to September 30, 1987. (Jim Tompkins)

3. California Department of Food and Agriculture for the use hexakis on watermelons to control spider mites; July 16, 1987, to December 15, 1987. California had initiated a crisis exemption for this use. (Libby Pemberton)

4. California Department of Food and Agriculture for the use of hexakis on marigolds to control spider mites; July 10, 1987, to October 1, 1987. (Libby Pemberton)

5. California Department of Food and Agriculture for the use of chlorothalonil on mushrooms to control verticillium dry bubble or brown spot disease; July 29, 1987, to July 28, 1988. (Libby Pemberton)

6. Colorado Department of Agriculture for the use of methidathion on field corn to control Bank grass mites; July 30, 1987, to August 31, 1987. (Gene Asbury)

7. Florida Department of Agriculture and Consumer Services for the use of triflumizole on Spathiphyllum to control Cylindrocladium; August 5, 1987, to July 1, 1988. Solicitation of public comment was published in the **Federal Register** of August 20, 1986 (51 FR 29694), no comments were received. The exemption was granted based on the finding that registered alternatives are not adequately dealing with the cylindrocladium problem on spathiphyllum. Benomyl provided the best control of the registered fungicides tested. However, benomyl applied at rates necessary to achieve control is phytotoxic to plants and is not effective at rates low enough to avoid phytotoxicity. Economic losses in excess of $1 million are likely to occur without this proposed use. These losses are expected to increase each year if adequate control is unavailable. This use of triflumizole can be toxicologically supported. The proposed use is not expected to pose a hazard to nontarget organisms. (Jim Tompkins)

8. Illinois Department of Agriculture for the use of thiabendazole on corn stored in temporary storage facilities to control *Aspergillus* spp. and *Penicillium* spp.; July 17, 1987, to January 1, 1988. (Jim Tompkins)

9. Kansas State Board of Agriculture for the use of methidathion on field and seed corn to control Bank grass mites and two-spotted spider mites; July 24, 1987, to September 30, 1987. (Gene Asbury)

10. Massachusetts Department of Food and Agriculture for the use of sodium fluoaluminate on potatoes to control Colorado potato beetles; August 4, 1987, to September 30, 1987. Massachusetts had initiated a crisis exemption for this use. (Gene Asbury)

11. Michigan Department of Agriculture for the use of sodium chlorate on edible dry beans as a harvest aid (desiccant); August 14, 1987, to October 31, 1987. (Gene Asbury)

12. Minnesota Department of Agriculture for the use of sodium chlorate on dry edible beans as a desiccant; August 28, 1987, to October 31, 1987. Minnesota had initiated a crisis exemption for this use. (Gene Asbury)

13. North Carolina Department of Agriculture for the use of metalaxyl on strawberries to control Phytophthora fragariae; August 4, 1987, to May 30, 1988. (Jim Tompkins)

14. Oregon Department of Agriculture for the use of carbofuran on peppermint to control strawberry root weevil; August 14, 1987, to October 31, 1987. EPA is in the process of completing a rebuttable presumption against registration (RPAR) for this chemical; final preliminary determination is nearing completion on granular formulations; this use is for flowable formulation. (Libby Pemberton)

15. South Dakota Department of Agriculture for the use of sodium chlorate on edible dry beans as a harvest aid (desiccant); August 14, 1987, to October 31, 1987. (Gene Asbury)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on July 21, 1987, for the use of mevinphos on pumpkins to control aphids. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. This program will end on October 31, 1987. (Jim Tompkins)

2. Minnesota Department of Agriculture on August 21, 1987, for the use of sodium chlorate on dry edible beans as a desiccant. Since it was anticipated that this program would be needed for more than 15 days, Minnesota has requested a specific exemption to continue it. The need for this program is expected to last until October 31, 1987. (Gene Asbury)

3. Washington Department of Agriculture on July 15, 1987, for the use of fenvalerate on cranberries to control weevils. Since it was anticipated that this program would be needed for more than 15 days, Washington has requested a specific exemption to continue it. The need for this program is expected to last until December 31, 1987. (Libby Pemberton)

EPA has denied a request from the Mississippi Department of Agriculture and Commerce for the use of bifenthrin on pecans to control pecan aphids. Notice of receipt of this specific exemption was published in the **Federal Register** of July 22, 1987 (52 FR 27580). The Agency has denied this request because information submitted did not support the existence of an emergency situation and provided no evidence that significant economic losses were likely to result. (Gene Asbury)

Authority: 7 U.S.C. 136.

Dated: October 14, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 87-24572 Filed 10-27-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

October 16, 1987.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of these submissions may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street NW., Suite 140, Washington, DC 20037, or telephone (202) 857-3815. Persons wishing to comment on an information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395-4814. Copies of these comments should also be sent to the Commission. For further information contact Terry Johnson, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0093
Title: Application for Renewal of Radio Station License in Specified Services (FCC Rule Parts 5, 21, 22, 23 and 25)
Form No.: FCC 405
Action: Extension
Respondents: Business
Frequency of Response: Every 10 years, or annually for developmental authority
Estimated Annual Burden: 2,100 Responses; 882 Hours
Needs and Uses: Filing is required for renewal of common carrier station license between 60 and 90 days prior to expiration. The data is used to verify that there has been no change in the organization.

OMB No.: 3060-0048
Title: Application for Consent to Transfer of Control of Corporation Holding Common Carrier or Non-Common Carrier Radio Station Construction Permit of License
Form No.: FCC 704
Action: Extension
Respondents: Business
Frequency of Responses: On occasion
Estimated Annual Burden: 800 Responses; 6,400 Hours
Needs and Uses: Filing is required of common carrier or non-common carrier radio station licensee to request authority to transfer control of construction permit or license resulting from sale of entity's controlling interest or merger with another entity. The data is used to determine the legal and financial qualifications of the licensee for this authorization.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 87-24866 Filed 10-27-87; 8:45 am]
BILLING CODE 6712-01-M

Advisory Committee for the ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Main Committee Meeting

October 20, 1987.

The Space WARC Advisory Committee will convene its next meeting on November 10, 1987. The Committee will be reviewing the work of the working groups and will be considering recommendations and advice to the Commission concerning U.S. participation within the intersessional work program of the International Telecommunication Union in preparations for the second session in 1988. Details regarding the date, place and agenda of the meeting are provided below.

Chairman: Ronald F. Stowe (202) 383-6433.
Vice Chairman: Stephen E. Doyle (916) 355-6941.
Date: Tuesday, November 10, 1987.
Time: 9:30 a.m.-1:00 p.m.
Location: Bell Communications Research, 2101 L Street NW., Sixth Floor, Conference Rooms B1 and B2, Washington, DC.
Designated Federal Employee: Thomas S. Tycz (202) 634-1860.
Agenda:

(1) Adoption of Agenda
(2) Approval of Minutes*
(3) Status of ITU Preparatory Activities
(4) Review of Other Administration Proposals
(5) Working Group Reports
(6) Future Work of Committee
(7) Date of Next Meeting
(8) Other Business
(9) Adjournment

For additional information, please contact Thomas S. Tycz, (202) 634-1860.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 87-24867 Filed 10-27-87; 8:45 am]
BILLING CODE 6712-01-M

[Report No. W-26]

Window Notice for the Filing of FM Broadcast Applications

Release: October 21, 1987.

Notice is hereby given that applications for vacant FM broadcast allotment listed below may be submitted for filing during the period beginning October 21, 1987 and ending November 24, 1987 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

CHANNEL—223 A	
Atwater	CA
Alachua	FL
Lyons	GA
Montezuma	GA
Topeka	KS
Arcadia	LA
Richmond	MO
Heavener	OK
Hollis	OK
Barnesboro	PA
Mexico	PA
Susquehanna	PA
Elgin	TX
Navasota	TX
Dayton	WA
Danville	WV

CHANNEL—223 C2	
Abilene	TX

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 87-24870 Filed 10-27-87; 8:45 am]
BILLING CODE 6712-01-M

[Report No. 1682]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

October 2, 1987.

Petitions for reconsideration have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying from the Commission's copy contractor, International Transcription Service (202-857-3800). Oppositions to these petitions must be filed November 13, 1987.

See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments; FM Broadcast Stations. (Cottonwood, Arizona) (RM-5819) Number of petitions received: 1.
Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Sheffield, Alabama) (RM-5887) Number of petitions received: 1.
Subject: Amendment of Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles. (CC Docket No. 86-212) Number of petitions received: 1.

* Copy to be circulated under separate cover.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Cherryvale, Kansas) (MM Docket No. 86-373) Number of petitions received: 1.

Subject: Amendment of Part 69 of the Commission's Rules and Regulations, Access Charges, to Conform it with Part 36, Jurisdictional Separations Procedures. (CC Docket No. 87-113) Number of petitions received: 1.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-24868 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; John Michael Bosquez et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city and state	File No.	MM Docket No.
A. John Michael Bosquez, Twentynine Palms, CA.	BPCT-870331LX	87-448
B. Carter Broadcasting Corporation, Twentynine Palms, CA.	BPCT-870528KQ	
C. Desert 31 Television, Inc., Twentynine Palms, CA.	BPCT-870529KN	
D. Twentynine Palms Broadcasting Corp., Twentynine Palms, CA.	BPCT-870529KO	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, A,B,C,D
Comparative, A,B,C,D
Ultimate, A,B,C,D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87-24871 Filed 10-27-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; RMS Broadcasting et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city and State	File No.	MM Docket No.
A. Rana Maley Steed d/b/a RMS Broadcasting, Rocky Mount, NC.	BPCT-861216IW	87-446
B. Family Broadcasting Enterprises, Rocky Mount, NC.	BPCT-870317KJ	
C. Donald Wayne Newnam d/b/a/ East Carolina Communications, Rocky Mount, NC.	BPCT-870317KK	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, A,B,C
Comparative, A,B,C
Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc. 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87-24872 Filed 10-27-87; 8:45 am]

BILLING CODE, 6712-01-M

FEDERAL RESERVE SYSTEM

PNC Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 19, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp,* Pittsburgh, Pennsylvania; to acquire 100 percent of the voting shares of The First Bank and Trust Company of Mechanicsburg, Mechanicsburg, Pennsylvania.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Princeton National Bancorp, Inc.,* Princeton, Illinois; to acquire 100 percent of the voting shares of USA Firstrust, Oglesby, Illinois, and thereby indirectly acquire First National Bank of Oglesby, Oglesby, Illinois.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bosworth Bancshares, Inc.*, Chillicothe, Missouri; to merge with Chillicothe Bancshares, Inc., Chillicothe, Missouri, and thereby indirectly acquire Community Bank, Chillicothe, Missouri.

D. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street; Dallas, Texas 75222:

1. *First American Bancorp, Inc.*, New York, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Texas American Bank/Levelland, Levelland, Texas.

Board of Governors of the Federal Reserve System, October 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-24849 Filed 10-27-87; 8:45 am]

BILLING CODE 6210-01-M

Valley Bank Shares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under section § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 13, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Valley Bank Shares, Inc.*, Schuyler, Nebraska; to merge with Arcadia Agency Company, Schuyler, Nebraska; Brainard Agency Company, Schuyler, Nebraska; Platte Valley National Company, Inc., Schuyler, Nebraska; Decatur Agency Company, Schuyler, Nebraska; Emerson First National Company, Schuyler, Nebraska; and First National Stanton Corporation, Schuyler, Nebraska. In addition, Applicant also proposes to indirectly acquire First Nebraska Bank, Arcadia, Nebraska; First Nebraska Bank, Brainard, Nebraska; First Nebraska Bank, N.A., Columbus, Nebraska; First Nebraska Bank, Decatur, Nebraska; First Nebraska, N.A., Emerson, Nebraska; and First Nebraska Bank, N.A., Stanton, Nebraska. Applicant's subsidiary bank, First Nebraska Bank, Valley, Nebraska, also proposes to merge with First Nebraska Bank, Brainard, Nebraska; First Nebraska Bank, N.A., Columbus, Nebraska; First Nebraska Bank, Decatur, Nebraska; First Nebraska, N.A., Emerson, Nebraska; and First Nebraska Bank, N.A., Stanton, Nebraska.

In connection with this application, Applicant also proposes to engage in insurance activities through Arcadia Agency Company, Brainard Agency Company, Decatur Agency Company, and First National Stanton Corporation pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. These activities will be conducted in Arcadia, Nebraska; Brainard, Nebraska; Decatur, Nebraska; and Stanton, Nebraska.

Board of Governors of the Federal Reserve System, October 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-24850 Filed 10-27-87; 8:45 am]

BILLING CODE 6210-01-M

Virginia Community Bank Employee Stock Ownership Plan et al.; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 12, 1987.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Virginia Community Bank Employee Stock Ownership Plan*, Louisa, Virginia; to acquire an additional 3.3 percent of the voting shares of Virginia Community Bankshares, Inc., Louisa, Virginia, and thereby indirectly acquire Virginia Community Bank, Louisa, Virginia.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Western Bancshares, Inc., Employee Stock Ownership Trust*, Booneville, Arkansas; to acquire an additional 5.72 percent of the voting shares of First Western Bancshares, Inc., Booneville, Arkansas, and thereby indirectly acquire Citizens Bank of Booneville, Booneville, Arkansas.

Board of Governors of the Federal Reserve System, October 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-24851 Filed 10-27-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Aid to Families With Dependent Children, Medicaid, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 1988 Through September 30, 1989

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: The Federal Percentages and Federal Medical Assistance Percentages for Fiscal Year 1989 have been calculated pursuant to the Social Security Act (the Act). These percentages will be effective from October 1, 1988 through September 30, 1989. This notice announces the calculated "Federal percentages" and "Federal medical assistance percentages" that we will use in determining the amount of Federal matching in State welfare and medical expenditures. The table gives figures for each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. Title XIX of the Act exists in each jurisdiction, title IV-A in all jurisdictions except American Samoa and the Northern Mariana Islands, titles I, X, and XIV operate only in Guam and the Virgin Islands, while title XVI (AABD) operates only in Puerto Rico. The percentages in this notice apply to State expenditures for assistance payments and medical services (except family planning which is subject to a higher matching rate). The statute provides separately for Federal matching of administrative costs.

Sections (1101(a)(8) and 1905(b) of the Act, as revised by section 9528 of Pub. L. 99-272, require the Secretary of Health and Human Services to publish these percentages each year. The Secretary is to figure the percentages, by formulas in sections 1101(a)(8,) and 1905(b) of the Act, from the Department of Commerce's statistics of average income per person in each State and in the Nation as a whole. The percentages are within upper and lower limits given in those two sections of the Act. The statute specifies the percentages to be applied to Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

The "Federal percentages" are for Aid to Families with Dependent Children (AFDC) and aid to needy aged, blind, or disabled persons, and the "Federal medical assistance percentages" are for Medicaid. However, under section 1118 of the Act, States with approved Medicaid plans may claim Federal matching funds for expenditures under approved State plans for these other programs using either the Federal percentage or the Federal medical assistance percentage. These States may claim at the Federal medical assistance percentage without regard to any maximum on the dollar amounts per recipient which may be counted under paragraphs (1) and (2) of sections 3(a), 403(a); 1003(a), 1403(a), and 1603(a) of the Act.

DATES: The percentages listed will be effective for each of the 4 quarter-year periods in the period beginning October 1, 1988 and ending September 30, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Emmett Dye, Office of Family Assistance, Family Support Administration, Room B-111 Transpoint Building, 2100 2nd Street, SW., Washington, DC 20201, Telephone (202) 245-2743.

(Catalog of Federal Domestic Assistance Program Nos. 13.808—Assistance Payments—Maintenance Assistance (State Aid); 13.714—Medical Assistance Program)

Dated: October 22, 1987.

Otis R. Bowen,

Secretary of Health and Human Services.

FEDERAL PERCENTAGES AND FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCT. 1, 1988-SEPT. 30, 1989

[Fiscal year 1989]

State	Federal percentages	Federal medical assistance percentages
Alabama	65.00	73.10
Alaska	50.00	50.00
American Samoa	50.00	50.00
Arizona	57.83	62.04
Arkansas	65.00	74.14
California	50.00	50.00
Colorado	50.00	50.00
Connecticut	50.00	50.00
Delaware	50.00	52.60
District of Columbia	50.00	50.00
Florida	50.20	55.18
Georgia	58.64	62.78
Guam	50.00	[1] 50.00
Hawaii	50.00	53.99
Idaho	65.00	72.71
Illinois	50.00	50.00
Indiana	59.68	63.71
Iowa	58.84	62.95
Kansas	50.00	54.93
Kentucky	65.00	72.89
Louisiana	65.00	71.07
Maine	62.98	66.68
Maryland	50.00	50.00
Massachusetts	50.00	50.00
Michigan	50.00	54.75
Minnesota	50.00	53.07
Mississippi	65.00	79.80
Missouri	55.51	59.96
Montana	65.00	70.62
Nebraska	55.97	60.37
Nevada	50.00	50.00
New Hampshire	50.00	50.00
New Jersey	50.00	50.00
New Mexico	65.00	71.54
New York	50.00	50.00
North Carolina	64.46	68.01
North Dakota	62.81	66.53
Northern Mariana Islands	50.00	[1] 50.00
Ohio	54.42	58.98
Oklahoma	62.29	66.06
Oregon	58.26	62.44
Pennsylvania	52.68	57.42
Puerto Rico	50.00	[1] 50.00
Rhode Island	50.97	55.88
South Carolina	65.00	73.08
South Dakota	65.00	71.02
Tennessee	65.00	70.17
Texas	54.49	59.04
Utah	65.00	73.86
Vermont	59.92	63.92
Virgin Islands	50.00	[1] 50.00
Virginia	50.00	51.20
Washington	50.00	53.06
West Virginia	65.00	76.14
Wisconsin	54.78	59.31
Wyoming	58.46	62.61

[1] For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI and Part A of title IV will be 75 per centum.

[FR Doc. 87-24896 Filed 10-27-87; 8:45 am]

BILLING CODE 4150-04-M

Health Care Financing Administration

Medicaid Program; Reconsideration of Disapproval of Portions of Two Minnesota State Plan Amendments; Hearing

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on December 2, 1987 in Chicago, Illinois to reconsider our decision to disapprove portions of Minnesota State Plan Amendments IM-86-109 and IM-86-110.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk by November 12, 1987.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION:

This notice announces an administrative hearing to reconsider our decision to disapprove portions of two Minnesota State Plan Amendments.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that information in a notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Minnesota's proposed amendments which cover personal care services furnished to a recipient while on a non-medical trip outside the home are consistent with Federal regulations at 42 CFR 440.170(f).

The State of Minnesota submitted SPAs IM-86-109 and IM-110 which would revise the State's definition of covered personal care services.

The amendments provide that personal care services can be covered in any setting (i.e., church, school, medical treatment) to persons who reside in their own home. However, regulations at 42 CFR 440.170(f) describe this benefit in terms of "personal care services *in* a recipient's home" (emphasis added). In order for personal care services to be covered, not only must the recipient reside in his or her own home, but the services must actually be furnished in the home as well. Implementing guidelines at section 5-140-00(D)(1) Of the Medical Assistance Manual provide for only one exception to the requirement that personal care services be furnished in the home: the services of a personal care attendant can be covered when ". . . accompanying the patient to clinics, physician office visits, or other trips which are made for the purpose of medical diagnosis or treatment." There is no provision for covering personal care services furnished to a recipient on a trip outside the home when the purpose of the trip is nonmedical in nature (e.g., attending school or church). Therefore, HCFA has determined that part of Minnesota's amendments which proposes to cover personal care services furnished when the recipient travels to church or school is not consistent with the personal care services definition at 42 CFR 440.170(f) and was disapproved.

The notice to Minnesota announcing an administrative hearing to reconsider the disapproval of its State plan amendments reads as follows:

Ms. Sandra Gardebring
Commissioner, Minnesota Department of Human Services, Centennial Office Building, St. Paul, Minnesota 55155

Dear Ms. Gardebring: This is to advise you that your request for reconsideration of the decision to disapprove portions of Minnesota SPAs IM-86-109 and IM-86-110 was received on September 24, 1987. Minnesota SPAs IM-86-109 and IM-86-110 revise the definition of covered personal care services.

The issue in this matter is whether that part of Minnesota's amendments which propose to cover personal care services furnished when the recipient travels to church or school are consistent with the personal care services definition found at 42 CFR 440.170(f).

I am scheduling a hearing on your request to be held on December 2, 1987 at 10:00 a.m. in the 8th Floor Conference Room, 175 W. Jackson Boulevard, Chicago, Illinois. If this date if not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594-8261.

Sincerely,

William L. Roper, M.D.,
Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: October 21, 1987.

William L. Roper,
Administrator, Health Care Financing Administration.

[FR Doc. 87-24895 Filed 10-27-87; 8:45 am]
BILLING CODE 4120-03-M

[BDM-042-N]

Medicare and Medicaid Programs; ICD-9-CM Coordination and Maintenance Committee; Meeting

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the next meeting of the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) Coordination and Maintenance Committee. The Public is invited to participate in the discussion of the topic areas.

DATE: The meeting will be held on Friday, December 4, 1987, beginning at 9:30 a.m. to 4:00 p.m. Eastern Standard time.

ADDRESS: The meeting will be held in Room 503A Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jan Niessing, (301) 594-8945.

SUPPLEMENTARY INFORMATION:

The ICD-9 CM is the clinical modification of the World Health Organization's International Classification of Diseases, Ninth Revision. It is the coding system required for use by hospitals and other health care facilities in reporting both diagnoses and surgical procedures for Medicare, Medicaid, and all other health-related DHHS programs. The work of the ICD-9 CM Coordination and Maintenance Committee will allow this coding system to continue to be an appropriate reporting tool for use in Federal programs.

The Committee is composed entirely of representatives from various Federal agencies interested in the International Classification of Diseases (ICD) and its modification, updating, and use for Federal programs. It is co-chaired by the National Center for Health Statistics and the Health Care Financing Administration.

At this meeting, the Committee will discuss: the eight-week rule for myocardial infarctions, photo pheresis, diagnostic endoscopic retrograde cholangiopancreatograph (ERCP), and other topics.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare—Hospital Insurance Program; No. 13.774, Medicare Supplementary Medical Insurance)

Dated: October 22, 1987.

William L. Roper,

Administrator, Health Care, Financing Administration.

[FR Doc. 87-24894 Filed 10-27-87; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-87-1750; FR-2413]

Office of Lender Activities and Land Sales Registration—Interstate Land Sales Registration Division: Delegated Developers; Order of Suspension

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Office of Lender Activities and Land Sales Registration, Interstate Land Sales Registration Division, HUD.

ACTION: Order of suspension.

SUMMARY: The Department is issuing an Order of Suspension to each developer listed on the attached Appendix. Each listed developer has failed to file amendments to its registration or to file documents establishing that no amendment is necessary.

The Order of Suspension is issued under the Interstate Land Sales Full Disclosure Act.

EFFECTIVE DATE: October 28, 1987.

FOR FURTHER INFORMATION CONTACT: Roger G. Henderson, Branch Chief, Land Sales Enforcement Branch, Interstate Land Sales Registration Division, Department of Housing and Urban Development, Room 6278, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-0502. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The HUD Interstate Land Sales Registration Division gives pubic notice of its attempt to serve upon the listed Developers at their last known address a notice requiring that each Developer make revisions to its Statement of Record. Although service of notice by certified mail was attempted in accordance with 24 CFR 1720.170, the notice was undeliverable. Consequently, on August 18, 1987 the Department of Housing and Urban Development, in accordance with 44 U.S.C. 1508, published in the **Federal Register** a Notice of Proceedings and Opportunity for Hearing (52 FR 30959) effecting constructive notice on the listed Developer respondents. The Notice informed these Developers of omissions, in their Statement of Record and Property Reports, of material provisions required by law, and advised each Developer of its right to request a hearing within 15 days of publication of the Notice. More than 15 days have now elapsed since the publication of the Notice, and the entities listed in the attached Appendix and referred to in the Order of Suspension as "Developer" have not requested a hearing; therefore, the Department is issuing this Order of Suspension.

Order of Suspension

1. Each Developer listed in the Appendix is subject to the Interstate Land Sales Full disclosure Act (15 U.S.C. 1701-1720) and to HUD regulations promulgated under 15 U.S.C. 1718. Each Developer has filed for its subdivision a Statement of Record and Property Report which became effective in accordance with 24 CFR 1710.21. The Statement remains in effect.

2. As authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been vested in the Secretary or the Secretary's designee.

3. Under 15 U.S.C. 1706(d and 24 CFR 1710.45(b)(1), if it appears to the Secretary or the Secretary's designee at the time that a Statement of Record includes any untrue statement of a material fact, or omits to state any material fact required to be stated or necessary to prevent the Statement of Record from being misleading, the Secretary or designee, after notice and opportunity for a hearing requested within 15 days of receipt of the notice, may issue an order suspending the Statement of Record.

4. A Notice of Proceedings and Opportunity for Hearing was published in the **Federal Register** on August 18, 1987, informing each listed Developer of information obtained by the Interstate Land Sales Registration Division indicating that the Developer's Statement of Record contained an untrue statement of a material fact or an omission of a material fact required to be stated or necessary to prevent the Statement of Record from being misleading. The Notice stated that failure to request a hearing would be treated as a default and that the allegations contained in the Notice would be taken to be true. Each listed Developer has failed to answer or to request a hearing under 24 CFR 1720.220 within 15 days of publication of HUD's Notice of Proceedings and Opportunity for Hearing.

Therefore, in accordance with 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), the Statement of Record filed by the Developer covering its subdivision is suspended, effective October 28, 1987. This Order of Suspension shall remain in effect until the Statement of Record has been properly amended as required by the Interstate Land Sales Full Discolosure Act and HUD's implementing Regulations.

Publication of the Order in the **Federal Register** constitutes constructive notice to each respondent developer. Unless otherwise exempt, any sales or offers to sell made by a listed Developer or by its agents, successors, or assigns while this Order of Suspension is in effect will be in violation of the provisions of the Interstate Land Sales Full Disclosure Act.

Date: October 20, 1987.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

Appendix

The captioned matters in this Appendix are listed alphabetically by subdivision in each State. The list contains the name of the subdivision, developer, representative and title, OILSR number and land Sales Enforcement Division Docket number.

Arizona

Rancho Del Sol Lindo, Charles W. Rubinstein, Managing Co-owner Respondent; 0-05790-02-0992; M-86-051

Golden Shores, The Dutch Golden Shores, Ltd., Robert J. Dorn, General Partner, 0-05838-02-998; M-87-026

California

Victoria Estates, Victoria Estates Limited Partnership, Bruce, L. Johnsey, Partner, C-0-06292-04-1048; M-86-046

Meadow Oaks Ranch Tract 13403, J.R. Brown, General Partner, C-0-06381-04-1066; M-86-045

Kentucky

Driftwood Estates, Keneth T. Turner, President, 0-03286-20-0051; M-86-021

Tennessee

Starpoint Village, A Limited Partnership, Paul Scott, General Partner, 0-05747-48-15; M-86-049.

[FR Doc. 87-24945 Filed 10-27-87; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, DC 20503, telephone 202–395–7313.

Title: Certification of Hunting and Fishing License Holders
Abstract: Part I (Form 3–154a) is used to collect numbers of paid hunting and fishing license holders from State fish and wildlife agencies. The information is used by the Service to apportion grant funds to each State under the Federal Aid in sport fish and wildlife restoration acts, as amended, Part II (Form 3–154b) is used to collect information on hunting and fishing license sales and is made available to the public.
Form Number(s): 3–154A and 3–154B
Frequency: Annually
Description of Respondents: States and local governments Annual
Responses: 50
Annual Burden Hours: 50
Service Clearance Officer: James E. Pinkerton, 202–653–7499, Room 859, Riddell Building, U.S. FIsh and Wildlife Service, Washington, DC 20240.

Date: September 30, 1987.

Ronald E. Lamberston,

Assistant Director—Fish and Wildlife Enhancement.

[FR Doc. 87–24919 Filed 10–27–87; 8:45 am]
BILLING CODE 4310–55–M

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395–7340.

Title: Annual Notification of Rights; 25 CFR 43.4
Abstract: Elementary, secondary, and post-secondary schools funded by the Bureau of Indian Affairs, whether operated under contract or otherwise, are required to give parents and eligible students notice of the types of student records maintained and rights to access.
Bureau Form Number: Not applicable.
Frequency: Annually.
Description of Respondents: Elementary, secondary and post-secondary schools funded by the Bureau of Indian Affairs.
Annual Responses: 84
Annual Burden Hours: 91
Bureau Clearance Officer: Cathie Martin (202) 343–3577.

Ronald D. Eden,

Deputy to the Assistant Secretary/Director—Indian Affairs (Indian Education Programs).

[FR Doc. 87–24891 Filed 10–27–87; 8:45 am]
BILLING CODE 4310–02–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395–7340.

Title: 25 CFR Part 244, Wind River Reservation Game Code—Hunting Permit
Abstract: The hunting permit has allowed for effective administration of a controlled hunting program. The permit allows the Tribal Agency Superintendent to determine who is eligible to hunt, enabling him/her to establish appropriate game harvest levels and hunting seasons. The affected public consists only of eligible tribal hunters of the Wind River Indian Reservation, Wyoming
Bureau Form Number: BIA 5602
Frequency: Annually
Description of Respondents: Members of the Arapahoe and Shoshone Indian Tribes seeking a hunting permit
Annual Responses: 1,930
Annual Burden Hours: 901
Bureau Clearance Officer: Cathie Martin, (202) 343–3577.

Frank Anthony Ryan,

Deputy to the Assistant Secretary—Indian Affairs (Trust and Economic Development).

[FR Doc. 87–24892 Filed 10–27–87; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

[CO–010–08–4333–11]

Intent To Hold a Public Meeting and To Prepare Two Environmental Assessments for Two Proposed Races in the Little Snake Resource Area, Craig District, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Public meeting and notice to prepare two environmental assessments.

SUMMARY: This notice advises the public that the Bureau of Land Management intends to hold a public meeting to gather information and seek assistance in defining the range of issues and concerns for preparation of two environmental assessments (EA's), one for motorcycle racing and one for off highway four wheel vehicle racing in the Sand Wash Basin of the Little Snake Resource Area. This notice is made in accordance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) to obtain suggestions and information from other agencies and the public on issues and concerns to be addressed in these EA's.

The public meeting will be held in Craig, Colorado. Meeting dates and locations are listed below.

DATES: The public meeting will be held on Novemeber 24, 1987. Written comments should be submitted by December 15, 1987. The draft EAs will be available in January 1988.

ADDRESS: The public meeting will be held at the Bureau of Land Management Little Snake Resource Area Office, 1280 Industrial Avenue, Craig, Colorado. Written comments should be addressed to Duane Johnson, Project Manager, at the above address. Phone (303) 824–4441.

SUPPLEMENTARY INFORMATION: The Sand Wash Basin is located in western Moffat County, Colorado. The EAs will analyze the effects of allowing motorcycle and off highway four wheel vehicle racing on designated routes. A Special Recreation Permit would be issued for each event allowed in the area. One motorcycle and one off road highway four wheel vehicle event have been applied for to take place in September of 1988.

Date: October 21, 1987.

David Nylander,

Acting District Manager.

[FR Doc. 87–24925 Filed 10–27–87; 8:45 am]

BILLING CODE 4310–JB–M

[ID–040–4322–02]

Salmon District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the Salmon District Grazing Advisory Board.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATE: The meeting will be held on Wednesday, December 16, 1987, at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467. The meeting will begin at 10:00 a.m.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Public Land 92–463. The meeting is open to the public; public comments on agenda items will be accepted from 1:00 to 1:30 p.m. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467 by December 10, 1987.

The agenda items are: Election of Officers, Range Monitoring, Range Improvement Projects, and Advisory Board Checking Account.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:30 p.m.) within 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Jerry W. Goodman, District Manager, Bureau of Land Management, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467, Telephone (208) 756–5400.

Dated: October 19, 1987.

Jerry W. Goodman,

District Manager.

[FR Doc. 87–24921 Filed 10–27–87; 8:45 am]

BILLING CODE 4310–GG–M

[ID–030–07–4410–08]

Pocatello Resource Area Proposed Resource Management Plan and Final Environmental Impact Statement; Idaho Falls District, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a proposed resource management plan (RMP) and final environmental impact statement (EIS) for management of public lands in the Pocatello Resource Area. The proposed plan and EIS describes and analyzes five alternatives for managing 264,481 acres of BLM administered public land over the next 15 or more years.

The proposed plan and Final EIS uses an abbreviated format. The BLM considered all of the comments received by letter and at two hearings. After a thorough review of the Draft EIS released January 1987 and an analysis of all of the comments, BLM has chosen to adopt Alternative B, with some minor additions and corrections, as the proposed plan for the area. Alternative B was identified in the Draft RMP/EIS as BLM's preferred alternative.

The proposed plan identifies three Areas of Critical Environmental Concern (ACEC) for designation and seven Research Natural Areas/Areas of Critical Environmental Concern (RNA/ACEC) for dual designation. The names, reason for designation, and acres covered are as follows: (1) Stump Creek Ridge ACEC, important elk winter range, 2483 acres; (2) Travertine Park ACEC, unique geologic features, 223 acres; (3) Downey watershed ACEC, municipal water supply, 1800 acres; (4) Cheatbeck Canyon RNA/ACEC, unique vegetation, 100 acres; (5) Dairy Hollow RNA/ACEC, rare plant, 45 acres; (6) Formation Cave RNA/ACEC, unique geologic formations, 70 acres; (7) Oneida Narrows RNA/ACEC, unique vegetative community, 617 acres; (8) Pine Gap RNA/ACEC, rare plant and unique vegetative community, 232 acres; (9) Robbers Roost Creek RNA/ACEC, unique vegetative community, 400 acres; (10) Travetine Park RNA/ACEC, unique vegetative community, 30 acres. The general management practices and uses allowed, including mitigating measures for these proposed areas are covered in the Draft RMP/EIS.

Copies of the Poposed plan and Final EIS are available for review at the following locations: Idaho Falls District Office, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, telephone (208) 529–1020. Pocatello Resource Area, Federal Building, 250 South Fourth Avenue, Suite 172, Pocatello, Idaho 83201, Telephone (208) 236–6860.

DATES: Protests to the proposed plan must be filed with the Director on or before November 9, 1987.

Any person who participated in the planning process and has an interest which is or may be adversely affected by the resource management plan may protest. The procedures for filing a protest are listed in the proposed plan and in 43 CFR 1610.5–2.

ADDRESS: Director (760), Bureau of Land Management, U.S. Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Lloyd H. Ferguson, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401, Telephone (208) 529–1020.

Delmar D. Vail,

State Director.

[FR Doc. 87–25008 Filed 10–27–87; 8:45 am]

BILLING CODE 4310–GG–M

[WY–920–08–4111–15; W–92013]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease W–92013 for lands in Goshen County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 18⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral

Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-92013 effective October 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Patricia J. Wattles,

Acting Chief, Leasing Section.

[FR Doc. 87-24882 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-22-M

[CA-940-07-4520-12; Group 877]

Filing of Plat of Survey; California

October 20, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Yuba County

T. 17 N., R. 8 E., and T. 18 N., R. 7 E.

2. This plat representing the dependent resurvey of a portion of the north boundary of Township 17 North, Range 8 East, and a portion of the south boundary and subdivision lines of Township 18 North, Range 7 East, and the survey of the subdivision of section 34, Township 18 North, Range 7 East, Mount Diablo Meridian, California, under Group No. 877, was accepted September 24, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Plumas National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Janine E. Wyler,

Acting Chief, Public Information Section.

[FR Doc. 87-24885 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-07-4520-12; Group 881]

Filing of Plat of Survey; California

October 20, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian, Trinity County

T. 5 N., R. 6 E.

2. This plat (2 sheets) representing the dependent resurvey of a portion of the south boundary of the certain subdivisional lines, and the metes-and-bounds surveys of Tract 37 through 41 and 43 through 45, Township 5 North, Range 6 East, Humboldt Meridian, California, under Group No. 881, was accepted September 10, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Trinity and Six Rivers National Forests.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Janine E. Wyler,

Acting Chief, Public Information Section.

[FR Doc. 87-24886 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-07-4520-12; Group 903]

Filing of Plat of Survey; California

October 20, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Calaveras County

T. 3 N., R. 12 E.

2. This plat representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, certain mining claims, a portion of mineral segregation survey, and the survey of section 3, Township 3 North, Range 12 East, Mount Diablo Meridian, California, under Group No. 903, was accepted September 11, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Janine E. Wyler,

Acting Chief, Public Information Section.

[FR Doc. 87-24887 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-07-4520-121; C-16-87]

Filing of Plat of Survey; California

October 20, 1987.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, San Bernardino County

T. 2 N., R. 3 W.

2. This supplemental plat of the NW ¼ of Section 30, Township 2 North, Range 3 West, San Bernardino Meridian, California, was accepted September 28, 1987.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the San Bernardino National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Janine E. Wyler,

Acting Chief, Public Information Section.

[FR Doc. 87-24888 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-07-4520-12; Group 853]

Filing of Plat of Survey; California

October 20, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Trinity County

T. 32 N., R. 10 W.

2. This plat (2 sheets) representing the dependent resurvey of the south boundary, a portion of the west boundary, and a portion of the subdivisional lines, and the survey of the subdivision of sections 10, 14, and 26, Township 32 North, Range 10 West, Mount Diablo Meridian, California,

under Group No. 853, was accepted September 10, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Janine E. Wyler,

Acting Chief, Public Information Section.

[FR Doc. 87-24883 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-07-4520-12; Group 865]

Filing of Plat of Survey; California

October 20, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Nevada County

T. 15 N., R. 10 E., and T. 16 N., R. 9 and 10 E.

2. This plat (3 plats) representing the following descriptions:

a. This plat (2 sheets) represents the dependent resurvey of portions of the west boundary, subdivisional lines, and certain boundaries of mineral surveys, and the survey of the subdivision of section 6, Township 15 North, Range 10 East, Mount Diablo Meridian, California;

b. This plat represents the dependent resurvey of the Third Standard Parallel North, along a portion of the south boundaries of Township 16 North, Ranges 9 and 10 East, a portion of the west boundary and a portion of the subdivisional lines, and certain boundaries of mineral surveys, and the survey of the subdivision of section 31, Township 16 North, Range 10 East, Mount Diablo Meridian, California, under Group No. 865, was accepted September 2, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executerd to meet certain administrative needs of the Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Janine E. Wyler,

Acting Chief Public Information Section.

[FR Doc. 87-24884 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Outer Continental Shelf Development Operations Coordination; Union Exploration Partners, Ltd.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Exploration Partners, Ltd., Unit Operator of the Vermilion Block 14 Federal Unit Agreement No. 14-08-0001-12339, has submitted a DOCD describing the activities it proposes to conduct on the Vermilion Block 14 Federal unit. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 15, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Steve Dessauer; Minerals Management Service; Gulf of Mexico OCS Region; Production and Development; Development and Unitization Section; Unitization Unit; Telephone (504) 736-2660.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 19, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-24889 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Proposed 1988 United States World Heritage Nomination

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: The Department of the Interior, though the National Park Service, announces the identification of the property listed herein as a proposed 1988 U.S. nomination to the World Heritage List. The property was selected as a potential 1988 nomination and published in the **Federal Register** on July 10, 1987 (52 FR 26101), with a request for public comment. A draft nomination document will be prepared for the property listed herein, and will serve as the basis for determining later this calendar year whether to formally nominate the property for World Heritage status.

DATES: The Federal Interagency Panel for World Heritage will meet in November 1987 to review the accuracy and completeness of the draft nomination document, and to make recommendations to the Department of the Interior. Subject to this review and necessary approvals. the Assistant Secretary for Fish and Wildlife and Parks will transmit a nomination to the World Heritage Committee, through the Department of State, so that it is received no later than December 31, 1987, for evaluation during 1988. If approved and formally submitted, notice of the U.S. World Heritage nomination will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Milne, Chief, Office of International Affairs, National Park Service, U.S. Department of the Interior, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage, now ratified by the United States and 95 other countries, has established a system of international cooperation through which cultural and natural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and

consistent heritage resource protection and enhancement throughout the world.

Participating nations identify and nominate their sites for inclusion on the World Heritage List, which currently includes 247 cultural and natural properites. The World Heritage Committee judges all nominations against established criteria. Under the Convention, each participating nation assumes responsibility for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, and rehabilitation of World Heritage properties situated within its borders.

In the United States, the Department of the Interior is responsible for directing and coordinating U.S. participation in the World Heritage Convention. The Department implements its responsibilities under the Convention in accordance with the statutory mandate contained in Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515; 16 U.S.C. 470a-1, a-2). On May 27, 1982, the Interior Department published in the **Federal Register** the policies and procedures that will be used to carry out this legislative mandate (47 FR 23392). These rules contain additional information on the Convention and its implementation in the United States, and identify the specific requirements that U.S. properties must satisfy before they can be nominated for World Heritage status, i.e., the property must have previously been determined to be of national significance, its owner must concur in writing to its nomination, and its nomination must include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment.

The Federal Interagency Panel for World Heritage assists the Department in implementing the Convention by making recommendations on U.S. World Heritage policy, procedures, and nominations. The Panel is chaired by the Assistant Secretary for Fish and Wildlife and Parks, and includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service, the U.S. Fish and Wildlife Service and the Bureau of Land Management within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; National Oceanic and Atmospheric Administration, Department of Commerce; Forest Service, Department of Agriculture; U.S. Information Agency and the Department of State.

Proposed 1988 United States World Heritage Nomination

The property listed below has been identified as a proposed 1988 U.S. nomination to the World Heritage List. The identification of this property as a proposed nomination indicates that a draft nomination document will be prepared. This document will subsequently be evaluated by the Federal Interagency Panel for World Heritage when it convenes in November 1987, at which time a decision on whether to formally nominate the property to the World Heritage List will be made.

The following culutural property, indicated by major theme, has been identified as a proposed 1988 U.S. World Heritage nomination. Also listed are the World Heritage criteria that the property appears most nearly to satisfy:

I. Cultural Property

Post-Contact Aboriginal

TAOS PUEBLO, New Mexico (36 25'N 105 40'W). A center of Indian culture since the 17th century, the Pueblo of Taos, still active today, symbolizes Indian resistance to external rule. The mission of San Geronimo, one of the earliest in New Mexico, was built near Taos Pueblo in the early 17th century. Criteria: (v) An outstanding example of a traditional human settlement which is representative of a culture and which has become vulnerable under the impact of irreversible change.

Dated: October 16, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-24961 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-10-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503; telephone 202-395-7340.

Title: Rights of Entry 30 CFR Part 877

Abstract: This Part requires that non-consentual (police power) entry can be obtained where land or water resources have been adversely affected by past coal mining practices, and that the adverse effects are at a stage where public interest, action to restore, reclaim, abate, control or prevent should be taken

Bureau Form Number: None

Frequency: On occasion

Description of Respondents: Regulatory authorities

Annual Responses: 120

Annual Burden Hours: 60

Bureau clearance officer: David Collegeman, (202) 33-5447.

Date: September 25, 1987.

Carson W. Culp,

Assistant Director for Budget and Administration.

[FR Doc. 87-24875 Filed 10-27-87; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-265]

Certain Dental Prophylaxis Methods, Equipment and Components Thereof; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: Peerless International, Inc.; Kavo American Corp.; Henry Schein, Inc.; University Dental Supply Co.; and Benco Dental Supply Co.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial

determination in this matter was served upon the parties on October 20, 1987.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: October 20, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-24934 Filed 10-27-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-264]

Certain Mail Extraction Desks and Components Thereof; Review and Reversal of Initial Determination

AGENCY: International Trade Commission.

ACTION: Review and reversal of initial determination.

SUMMARY: Notice is hereby given that the Commission has determined to review and reverse the presiding administrative law judge's (ALJ's) September 18, 1987, initial determination (ID) (Order No. 6) granting respondents' motion for summary determination.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 15, 1987, in response to a complaint filed by Opex Corporation of Cherry Hill, New Jersey. The complaint alleged that the importation and sale by the named respondents of certain mail extraction equipment infringes, contributorily infringes, and/or induces the infringement of U.S. Letters Patent Re. 32,328 owned by complaint, thereby constituting unfair methods of competition and unfair acts in vilation of section 337 of the Tariff Act of 1930. (19 U.S.C. 1337).

On September 18, 1987, in response to a motion by respondents for summary determination, the presiding administrative law judge (ALJ) issued an initial determination (ID), Order No. 6, terminating the investigation. The ALJ determined that no unfair acts or methods of competition can be found under section 337 in connection with the importation and sale by respondents of the products at issue because the unfair act alleged is infringement of complainant's '328 patent, and that patent is unenforceable due to inequitable conduct on the part of complainant's patent counsel during prosecution of the reissue application for the '328 patent before the U.S. Patent and Trademark Office. Specifically, the ALJ determined that complainant's patent counsel was grossly negligent in failing to advise the U.S. Patent and Trademark Office of prior art material to the consideration of complainant's reissue application.

Following issuance of the ID, both complainant and the Commission investigative attorney filed petitions seeking Commission review of the ID. On October 20, 1987, following its review of the ID as well as the petitions for review, the Commission issued an Action and Order reversing the ID and remanding the investigation to the ALJ for further proceedings.

Authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.56 of the Commission's rules (19 CFR 210.56).

Copies of the ID, The Commission's Action and Order, and all other nonconfidential documents filed in connection with this investigation are or will be available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-1471. Hearing impaired individuals are advised that information concerning this investigation can be obtained by contacting the Commission TDD terminal on 202-724-0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: October 20, 1987.

[FR Doc. 87-24935 Filed 10-27-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-384 (Preliminary)]

Nitrile Rubber From Japan

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of nitrile rubber,[2] provided for in item 446.15 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 1, 1987, a petition was filed with the Commission and the Department of Commerce by Uniroyal Chemical Co., Inc., Middlebury, CT, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of nitrile rubber from Japan at LTFV. Accordingly, effective September 1, 1987, the Commission instituted preliminary antidumping investigation No. 731-TA-384 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 10, 1987

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] The product covered by this investigation is nitrile rubber, not containing fillers, pigments, or rubber processing chemicals. For purposes of this investigation, nitrile rubber refers to the synthetic rubber that is made from the polymerization of butadiene and acrylonitrile and that does not contain any type of additive or compounding ingredient having a function in processing, vulcanization, or end use of the product.

(52 FR 34325). The conference was held in Washington, DC, on September 23, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on October 16, 1987. The views of the Commission are contained in USITC Publication 2027 (October 1987), entitled "Nitrile Rubber from Japan: Determination of the Commission in Investigation No. 731-TA-384 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Before the Commission.

Kenneth R. Mason,

Secretary.

Issued: October 19, 1987.

[FR Doc. 87-24936 Filed 10-27-87; 8:45 am]

BILLING CODE 7020-02-M

[332-251]

Analysis of Recent Japanese Measures To Promote Structural Adjustment

AGENCY: International Trade Commission.

ACTION: Institution of investigation.

EFFECTIVE DATE: October 13, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Mendez, Research Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436, telephone (202) 523-8267.

Background and Scope of Investigation: The Commission instituted investigation No. 332-251 following receipt on October 1, 1987, of a letter from the United States Trade Representative (USTR), requesting, at the direction of the President that the Commission conduct an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to analyze certain Japanese measures to promote structural adjustment.

Japan has recently enacted its third program since the fall of 1985 to promote structural adjustment. Each program benefits a different set of industries or firms. While these programs are intended to facilitate the transfer of resources from less competitive industries and firms to those that are more robust, it is possible that the programs will keep alive otherwise uncompetitive firms to the detriment of competing U.S. industries. The three programs are the Yen-loan program, the Regional Loan (Castletown) program, and the Smooth Adjustment program.

The Commission's report will consist of two phases. The first phase will include background information on Japanese Government measures to promote structural adjustment and an estimate of the overall effects of these programs. The second phase will include a more in-depth analysis of the programs' effects on major beneficiaries in Japan and their U.S. competitors.

Ambassador Yeutter has requested that the Commission report its first phase findings by April 1, 1988, and its second phase findings by September 20, 1988.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724-0002.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: October 21, 1987.

[FR Doc. 87-24933 Filed 10-27-87; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31127]

CSX Transportation, Inc., and Central of Georgia Railroad Co., Exemption; Joint Project for Relocation of a Line of Railroad

On October 1, 1987, CSX Transportation, Inc. (CSX) and Central of Georgia Railroad Company (Central) filed a notice of exemption under 49 CFR 1180.2(d)(5) for a joint project to relocate a line of railroad.

CSX and Central both own lines of railroad in Valdosta, GA. The joint project will provide for relocation of a small segment of CSX's main line in Valdosta to a right-of-way previously used by Central that passes under the Patterson Street overhead bridge. The relocation will eliminate a grade crossing at the intersection of Patterson Street and CSX's main line, and will eliminate conflicts between rail and motor vehicle traffic there.

The joint project involves: (1) CSX's relocation of approximately 1.4 miles of its main line in Valdosta between CSX's mileposts AN-648.65 and AN-647.25 to a mostly parallel right-of-way previously used by Central of approximately 1 mile between mileposts GF-27.75 and GF-28.75; (2) the abandonment of CSX's main line track between its mileposts AN-648.65 and AN-647.25; (3) the acquisition of the Central right-of-way by the City of Valdosta, and the conveyance of the Central right-of-way and other needed property from the City of Valdosta to CSX; (4) the construction of the relocated track by CSX along the previous Central right-of-way and on other property to connect with CSX's existing main line; (5) the abandonment of the former Central main line track between mileposts GF-27.75 and GF-28.75; and (6) to permit continued service by Central to two existing Central customers after the CSX main line is relocated, (a) the realignment or construction of two segments of connector trackage (510 feet and 574 feet) and (b) the construction of two industrial tracks (1,237 feet and 380 feet).[1]

The exemption covering the joint relocation took effect on October 8, 1987. However the various steps in the relocation project will take approximately one year to complete.

The joint project involves the relocation of a line of railroad that does not disrupt service to shippers. Accordingly, insofar as the joint project involves such a relocation, it falls within the class of transactions identified at 49 CFR 1180.2(d)(5). The Commission categorically exempted these transactions under 49 U.S.C. 10505 in *Railroad Consolidation Procedures*, 366 I.C.C. 75 (1982).

In Finance Docket No. 30639, *Louisiana & Ark. Ry. Co.—Trackage Rights Exemption—Illinois C.G. R.R. Co. and New Orleans Term. Co.* (not printed), served April 17, 1985, the abandonment of approximately 6 miles of track was exempted under the provisions of § 1180.2(d)(5) as an incident to a line relocation proposal. Similarly, the facts of this case show that the proposed abandonment of CSX's main line track between CSX's mileposts AN-648.65 and AN-647.25 is incidental to a line relocation and should be exempted under § 1180.2(d)(5).

However, insofar as the notice of exemption governs the abandonment of those portions of the former Central main line track between mileposts GF-27.75 and GF-28.75, that are necessary to serve Prinsho Products and Griffin Lumber Company, and the realignment or construction of two segments of connector trackage (510 feet and 574 feet), the notice has been rejected by a decision of the Commission, Director Mackall, served October 28, 1987. The

[1] The length of the longer of the two proposed industrial tracks is variously set at either 1,237 feet or 1,145 feet. The discrepancy is of no concern. The construction of these industrial tracks is exempt from Commission jurisdiction. *See* 49 U.S.C. 10907.

decision has been issued in Finance Docket No. 31127.

Use of this exemption will be conditioned on appropriate labor protection. Any employees affected by the partial abandonment incidental to the relocation project will be protected by the conditions in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Decided: October 16, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-24789 Filed 10-27-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Delhi Welding Co., Inc., and Emery Realty, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 2, 1987 a proposed consent decree in *United States v. Delhi Welding Co., Inc., and Emery Realty Inc.,* Civil Action Number C-1-87-804, was lodged with the United States District Court for the Southern District of Ohio, Western Division. The complaint filed by the United States alleged violations of the Clean Air Act and the National Emissions Standards for Hazardous Air Pollutants for asbestos. Defendants were the owners and operators of a renovation operation which involved the removal of asbestos-containing insulation from steam piping. Defendants violated the Clean Air Act and the regulations passed thereunder by failing to notify the State of Ohio prior to the commencement of the renovation operation at 29 West Fourth Street, Cincinnati, Ohio, and by failing to follow proper procedures during the removal and storage of the asbestos-containing material.

The consent decree provides that defendants shall pay a civil penalty of $27,500.00 and be subject to an injunction requiring compliance with the asbestos regulations.

The Department of Justice will receive for a period of thirty (30) days from the date of publication of this notice comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Delhi Welding Co., Inc., and Emery Realty Inc.,* D.J. No. 90-5-2-1-1105.

The proposed consent decree may be examined at the Office of the United States Attorney, Room 220, United States Post Office and Courthouse Building, Cincinnati, Ohio, at the Region V office of the Environmental Protection Agency, Third Floor, 111 West Jackson Street, Chicago, Illinois, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to *United States v. Delhi Welding Co., Inc. and Emery Realty Inc.,* D.J. No. 90-5-2-1-1105, and include a check for $1.40 (10 cents per page reproduction charge) payable to the United States Treasury.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-24876 Filed 10-27-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Judgment; Monitor Sugar Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 6, 1987 a proposed Consent Judgment in *United States and the State of Michigan v. Monitor Sugar Company,* Civil Action No. 85-CV-10309, was lodged with the United States District Court for the Eastern District of Michigan. The proposed Consent Judgment concerns the control of air pollution from the boilers and pulp dryers at Monitor Sugar's sugar beet refinery in Bay City, Michigan. The proposed Consent Judgment requires the City: to achieve, demonstrate, and maintain compliance with the Clean Air Act and applicable regulations in the federally approved Michigan State Implementation Plan at boilers 1, 2 and 3 as of the date of entry of this Consent Judgment; to achieve, demonstrate, and maintain compliance with the Clean Air Act and applicable regulations in the federally approved Michigan State Implementation Plan at pulp dryers 1, 2 and 3 following the installation of specified air pollution control equipment; to pay stipulated penalties for specific failures to meet the terms of the Consent Judgment; and to pay a total civil penalty of $250,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States of America and the State of Michigan v. Monitor Sugar Company,* D.J. Ref. 90-5-2-1-823 and 90-5-2-1-823A.

The proposed Consent Decree may be examined at the office of the United States Attorney, 204 Federal Building, 1000 Washington Street, Bay City, Michigan, and at the Region 5 Office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $3.50 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-24898 Filed 10-27-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree; Proteccion Tecnica Ecologica, Inc., et al.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on October 15, 1987, a proposed consent decree in *United States v. Proteccion Tecnica Ecologica. Inc., et al.,* Civil Action No. 86-1698 (HL), was lodged with the United States District Court for the District of Puerto Rico. This consent decree settles a lawsuit filed on October 30, 1986, pursuant to section 3008 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6928, for injunctive relief and the recovery of civil penalties against the owner and the operators of a hazardous waste treatment, storage, and disposal facility in Puerto Rico. The complaint named as defendants Proteccion Tecnica Ecologica, Inc. ("PROTECO"), Resource Management, Inc. ("Resource

Management"), Compania Ganadera Del Sur, Inc. ("Ganadera"), and Dr. Jorge Fernandez ("Fernandez"). The complaint alleged that PROTECO operated the facility, that Resource Management owned the stock of PROTECO, and that Fernandez was the principal owner of Resource Management. The complaint also alleged that Ganadera owned the land on which the facility is located. The complaint alleged that the defendants violated RCRA, the Commonwealth of Puerto Rico Public Policy Environmental Act of 1970, P.R. Laws Ann. tit. 12 (1978 and Cum. Supp. 1984) ("Puerto Rico Environmental Act"), and the interim status regulations promulgated pursuant to RCRA and the Puerto Rico Environmental Act.

Under the terms of the settlement between the United States and the defendants, the United States and PROTECO, Resource Management, and Ganadera (referred to in the consent decree as "the Settling Defendants") will enter into the proposed consent decree, and the United States will file a notice of dismissal, with prejudice, of the United States' claims against Fernandez. The proposed consent decree calls for the Settling Defendants to undertake an extensive program at the facility to bring the facility into compliance with the interim status regulations. The compliance program includes upgrades to the facility's closure plan, post-closure plan, groundwater monitoring program, waste analysis program, and waste treatment, disposal, and handling practices.

The proposed consent decree calls for the Settling Defendants to pay a civil penalty of $850,000 for past violations of the federal and Commonwealth statutes, the RCRA regulations, an EPA administrative consent agreement, and an EPA administrative order as alleged in the complaint up to the date of lodging. The penalty will by paid over a period of approximately five years in accordance with a payment schedule contained in the decree. The consent decree also contains stipulated penalties for failure to comply with the terms of the consent decree.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States v. Proteccion Tecnica Ecologica, Inc., et al.*, D.J. Ref. 90-7-1-345.

The proposed partial consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

EPA Region II

Contact: Andrew Praschak, Assistant Regional Counsel, U.S. Environmental Protection Agency—Region II, 1413 Fernandez Juncos Avenue, Santurce, Puerto Rico 00909 (809) 725-7825

United States Attorney's Office

Contact: Eduardo E. Toro-Font, Assistant United States Attorney, Room 101, Federal Office Building, Carlos E. Chardon Street, Hato Rey, Puerto Rico 00918 (809) 753-4656

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed partial consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the decree, please enclose a check for copying costs in the amount of $3.60 payable to Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-24877 Filed 10-27-87; 8:45 am]

BILLING CODE 4410-01-M

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board will meet on November 18, 1987, starting at 8 a.m. at the Kahler Hotel, 20 Second Avenue Southwest, Rochester, Minnesota, 55902. At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Raymond C. Brown,

Director.

[FR Doc. 87-24846 Filed 10-27-87; 8:45 am]

BILLING CODE 4410-36-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87-87]

Government-Owned Inventions; Availability for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly foreign licensing.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: October 28, 1987.

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, Harry Lupuloff, Director of Patent Licensing, Code GP, Washington, DC 20546, telephone (202) 453-2430.

Patent Application 929,869: Rapid Quantification of an Internal Property; filed November 13, 1986.

Patent Application 008,895: Helicopter Anti-Torque System Using Fuselage Strakes; filed January 30, 1987.

Patent Application 008,242: Ceramic Honeycomb Structures and the Method Thereof; filed January 29, 1987.

Patent Application 008,199: Apparatus and Procedure to Detect a Liquid Solid Interference During Crystal Growth in a Bridgman Furnace; filed January 29, 1987.

Patent Application 003,676: Crossflow Vorticity Sensor; filed January 15, 1987.

Patent Application 010,950: Device for Measuring Hole Elongation in a Bolted Joint; filed February 5, 1987.

Patent Application 010,949: Real Time Simulation Clock; filed February 5, 1987.

Patent Application 013,769: Dorsal Fin for Earth-to-Orbit Transports; filed February 12, 1987.

Patent Application 010,942: A Welding Monitoring System; filed February 5, 1987.

Patent Application 013,801: A Multi-Body Aircraft With an All-Moveable Center Fuselage Actively Controlling Fuselage Pressure Drag; filed February 12, 1987.

Patent Application 013,802: Bearing-Bypass Material System; filed February 12, 1987.

Patent Application 010,943: Porous Plug for Reducing Orifice Induced Pressure Error in Airfoils; filed February 5, 1987.

Patent Application 021,100: An Ion Generator and Ion Application System: filed March 3, 1987.

Patent Application 027,981: Liquid Encapulated Crystal Growth; filed March 19, 1987.

Patent Application 028,831: Polyphenylquinoxalines containing Alkylenedioxy Groups; filed March 23, 1987.

Patent Application 022,305: Lightweight Tensile Specimen Grips; filed March 5, 1987.

Patent Application 022,298: Truss-Core Corrugation; filed March 5, 1987.

Patent Application 028,832: Improved Control Surface Actuator; filed March 23, 1987.

Patent Application 044,181: Welding Torch Gas Cup Extension; filed April 30, 1987.

Patent Application 035,430: Process for Developing Crystallinity in Linear Aromatic Polyimides; filed April 7, 1987.

Patent Application 041,387: Helicopter Having a Disengageable Tail Rotor; filed April 23, 1987.

Patent Application 041,388: Optical Data Transfer System for Crossing Botary Joint; filed April 23, 1987.

Patent Application 044,180: Miniature Remote Dead Weight Calibrator; filed April 30, 1987.

Patent Application 038,560: Fiber Reinforced Ceramic Material; filed April 15, 1987.

Patent Application 032,818: Collect Lock Joint for Space Station Truss; filed April 1, 1987.

Patent Application 035,401: Improved Method and Apparatus for Waste Collection; filed April 7, 1987.

Patent Application 032,685: Four Terminal Electrical Testing Device; filed April 1, 1987.

Patent Application 044,183: Method of Controlling a Resin Curing Process; filed April 30, 1987.

Patent Application 032,819: Systolic VLST Array for Implementing the Kalman Algorithm; filed April 1, 1987.

Patent Application 045,984: Range and Range Rate System; filed May 4, 1987.

Patent Application 052,941: Vapor Fragrancer; filed May 22, 1987.

Patent Application 051,426: Integrally Stiffened Crash Energy-absoring Subfloor Beam Structure; filed May 19, 1987.

Patent Application 054,983: Carbide/Flouride/Silver Self-Lubricating Composite; filed May 28, 1987.

Patent Application 052,940: Quick Disconnect Inflatable Seal Assembly; filed May 22, 1987.

Patent Application 056,930: Bi-Stem Gripping Apparatus; filed June 3, 1987.

Patent Application 060,201: Hybrid Analoge Digital Associative Neure] Network; filed June 10, 1987.

Patent Application 066,450: Sample Levitation and Melt in Microgravity; filed June 26, 1987.

Patent Application 061,182: Cryogenic Insulation System; filed June 10, 1987.

Patent Application 063,354: Depolarization Measurement Method and Device; filed June 18, 1987.

Patent Application 063,557: Auxiliary Data Input Device; filed June 18, 1987.

Patent Application 060,200: Arcjet Power Supply and Start Circuit; filed June 10, 1987.

Patent Application 067,844: Capillary Heat Transport and Fluid Management Device; filed June 30, 1987.

Patent Application 067,846: Pressure Big for Repetitive Casting; filed June 30, 1987.

Patent Application 060,196: Switched Steerable Multiple Beam Antenna System; filed June 10, 1987.

Patent Application 071,678: Combination Photovoltaic-Heat Engine Energy Converter; filed July 9, 1987.

Patent Application 076,956: Thermocouple for Heating and Cooling of Memory Metal Actuators; filed July 23, 1987.

Patent Application 079,320: Tapered Tubular Polyester Fabric; filed July 30, 1987.

Patent Application 073,541: A Digitally Controlled System for Effecting and Presenting a Selected Electrical Resistance; filed July 15, 1987.

Patent Application 073,539: Space Vehicle Thermal Rejection System; filed July 15, 1987.

Patent Application 076,955: Earth-to-Orbit Vehicle Providing a Reusable Orbital Stage and Method of Utilizing Same; filed July 23, 1987.

Patent Application 079,316: Elevated Temperature Aluminum Alloys; filed July 30, 1987.

Patent Application 894,541: Multi-adjustable Headband; filed August 8, 1987.

Dated: October 20, 1987.

John E. O'Brien,

General Counsel.

[FR Doc. 87-24907 Filed 10-27-87; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-335-OLA; ASLBP No. 88-560-01-LA]

Establishment of Atomic Safety and Licensing Board; Florida Power and Light Co.

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Florida Power and Light Company

St. Lucie Plant, Unit No. 1, Facility Operating License No. DPR-67

This Board is being established pursuant to a notice published by the Commission on August 31, 1987, in the **Federal Register** (52 FR 32852-56) entitled, "Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing." The proposed amendment would authorize the licensee to increase the storage capacity of the spent fuel pool from the present capacity of 728 fuel assemblies to 1706 fuel assemblies.

The Board is comprised of the following Administrative Judges:

B. Paul Cotter, Jr., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Glenn O. Bright, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 22nd day of October 1987.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 87-24966 Filed 10-27-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-2061-ML; ASLBP No. 84-495-01-ML]

Reconstitution of Board; Kerr-McGee Chemical Corp., West Chicago Rare Earths Facility

Pursuant to the authority contained in 10 CFR 2.721 and 2.721(b), the Atomic Safety and Licensing Board for Kerr-McGee Chemical Corporation (West Chicago Rare Earths Facility), Docket No. 40-2061-ML, is hereby reconstituted by appointing Administrative Judge Jerry R. Kline in place of Administrative Judge Peter A. Morris, who retired.

As reconstituted, the Board is comprised of the following Administrative Judges:

John H Frye, III, Chairman
Dr. James H. Carpenter
Dr. Jerry R. Kline

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701(1980). The address of the new Board member is: Administrative Judge Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 22nd day of October 1987.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 87-24967 Filed 10-27-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 and 50-323]

Issuance of Amendments to Facility Operating Licenses; Pacific Gas and Electric Co., Diablo Canyon Nuclear Power Plant

The U.S. Nuclear Regulatory Commission (the Commission) has, pursuant to the Initial Decision of its Atomic Safety and Licensing Board dated September 11, 1987, issued Amendment No. 22 to Facility Operating License No. DPR-80 and Amendment No. 21 to Facility Operating License No. DPR-82 issued to Pacific Gas and Electric Company, which revised the licenses and appended Technical Specifications for operation of the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, respectively, located in San Luis Opisbo County, California. The amendments are effective as of the date of issuance.

The amendments authorize the licensee to modify the spent fuel pools to increase the storage capacity of each from 270 fuel assemblies to 1324 fuel assemblies.

The Initial Decision is subject to review by the Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by the Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration and Opportunity for a Hearing was published in the **Federal Register** on January 13, 1986 (51 FR 1451). Comments and petitions for leave to intervene were filed by San Luis Obispo Mothers for Peace, the Santa Lucia Chapter of the Sierra Club, and Consumers Organized for Defense of Environmental Safety.

On May 30, 1986, after the petitions to intervene had been filed, the NRC staff made a finding of "no significant hazards consideration". Based on that finding, NRC approved the license amendments and made them immediately effective. San Luis Obispo Mothers of Peace and the Sierra Club appealed the finding. The U.S. Court of Appeals for the Ninth Circuit found that the NRC finding of "no significant hazards consideration" violated the "Sholly" amendment to the Atomic Energy Act and implementing regulations. The Court stayed any further work on the spent fuel pools and barred the licensee from depositing any spent fuel therein except in accordance with the pools' original configuration, until the conclusion of the hearing.

The hearing was held at Avila Beach, California on June 15-18, 1987 with respect to the admitted contentions of the Sierra Club, other petitioners having withdrawn from the proceeding. Subsequently, the above-referenced Initial Decision was issued on September 11, 1987.

The hearing having been held and decided, and all other safety and environmental reviews having been completed, these amendments reauthorize the original amendments issued on May 30, 1986.

For further details with respect to this action, see (1) the application for amendments dated October 30, 1985, (2) amendments No. 8 and 6 to Licensee Nos. DPR-80 and DPR-82, respectively (issued on May 30, 1986), (3) amendments No. 22 and 21 to License Nos. DPR-80 and DPR-82 respectively (issued on October 20, 1987), (4) the Commission's related Safety Evaluation dated May 30, 1986, (5) the Commission's Environmental Assessment and Finding of No Significant Impact dated May 21, 1986, (6) NRC's Supplement to the Safety Evaluation and the Environmental Assessment, dated October 15, 1987, and (7) the Initial Decision of the Atomic Safety and Licensing Board dated September 11, 1987.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the California Polytechnic State University Library, Government Document and Maps Department, San Luis Obispo, California 93407. A single copy of items (2) through (7) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Bethesda, Maryland, this 20th day of October, 1987.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87-24968 Filed 10-27-87; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENTIAL COMMISSION ON THE HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIC

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the Presidential Commission on the Human Immunodeficiency Virus Epidemic will hold a public meeting on Thursday, November 12, 1987, 8:30 a.m. to 5:00 p.m. at the University of Miami, Mailman Center for Child Development, 8th floor auditorium, 1601 NW., 12th Avenue, Miami, Florida.

The purpose of the meeting is to allow appropriate local, state and Federal officials, including the public and private sector and other individuals to address the Presidential Commission on the HIV Epidemic in this area. Invited speakers will discuss activities relevant to their agency mission or individual activities.

Records shall be kept of all commission proceedings and shall be available for public inspection at 655

15th Street, NW., Suite 901, Washington, DC 20005.

Polly L. Gault,

Executive Director, Presidential Commission of the HIV Epidemic.

[FR Doc. 87-25121 Filed 10-27-87; 10:27 am]

BILLING CODE 4160-15-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25055; File No. SR-NYSE-87-37]

Self-Regulatory Organization; New York Stock Exchange, Inc.; Deletion of Restrictions on Specified Underwriting Activities of Approved Persons of Specialist Member Organizations Entitled to Exemptive Relief Under Exchange Rule 98

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 22, 1987 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Exchange Rule 460.20 to delete, until May 1, 1988, restrictions that prohibit an approved person of a specialist member organization that is entitled to the exemption from Rule 460(a) and Rule 460.10 provided by the Rule 98 from acting as a managing underwriter for a distribution of (i) any security in which an associated specialist is registered; (ii) any security which is immediately exchangeable for or convertible into a security in which an associated specialist is registered; and (iii) any security which entitles the holder thereof immediately to acquire a security in which an associated specialist is registered.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the proposed rule change is to delete, until May 1, 1988, restrictions in Exchange Rule 460.20 which prohibit an approved person of a specialist member organization entitled to the exemptions from Rule 460(e) and Rule 460.10 provided by Rule 98 from acting as a managing underwriter for a distribution of (i) any security in which an associated specialist is registered; (ii) any security which is immediately exchangeable for or convertible into a security in which an associated specialist is registered and (iii) any security which entitles the holder thereof immediately to acquire a security in which an associated specialist is registered.

It is the Exchange's present intention to consider seeking, prior to May 1, 1988, permanent approval of this proposed rule change.

In SR-NYSE-85-25, the Exchange submited for Commission approval new Rule 98 and implementing Guidelines which provided, essentially, that an approved person of a specialist member organization which established a formal organizational separation between itself and the associated specialist member organization and adopted internal controls and otherwise conducted its operations in conformity with the Guidelines would be entitled to an exemption from the restrictions in Rules 104, 104.13, and 105, and would be entitled to an exeption from Rules 113.20 and 460 to the extent indicated in those Rules.

As submitted by the Exchange, and as approved by the Commission, Rule 460.20 permits an approved person, who is entitled to the exemptions provided by Rule 98, to act as a member of an underwriting syndicate or selling group, but not as a managing underwriter, for a distribution of equity or convertible securities of an issuer in whose securities an associated specialist is registered. (This restriction is hereinafter referred to as the "managing underwriter restriction".) When the approved person is acting as a syndicate or selling group member as permitted, the associated specialist member organization must "give up the book" to another specialist member organization, which is to act as a full-time relief specialist for the period during which SEC Rule 10b-6 is applicable to the regular specialist member organization. The full-time relief specialist member organization trades for its own account, not for the account of the regular specialist member organization, in meeting marketmaking responsibilities under Exchange rules during the applicable Rule 10b-6 period. The approved person may act as an underwriter, in any capacity, for a distribution of nonconvertible debt securities for an issuer in whose securities an associated specialist is registered, and the specialist member organization is not required to "give up the book" in such instances.

In SR-NYSE-85-25 (at page 11), the Exchange expressed its view at that time that any possible public perception of a potential conflict of interest between an approved person, acting as underwriter, and its associated specialist member organization, acting as marketmaker, was likely to focus most particularly on instances where the approved person was acting as a managing underwriter, and thus had a greater financial stake in the successful outcome of the distribution than other syndicate or selling group members. Thus, to minimize any possible concerns that might arise in this area, the Exchange proposed at that time the managing underwriter restriction.

In its Release (34-23768, November 3, 1986) approving the Exchange's Rule 98 exemptive program, the Commission noted that it was required "to balance the potential reduced risks of abuse resulting from the managing underwriter prohibition against the argument by integrated broker-dealers that the prohibition imposes an unnecessary competitive burden on their ability to enter the specialist business". The Commission concluded that the managing underwriter restriction was not "strictly necessary" under the Securities Exchange Act, but stated that "(T)he Act allows an SRO sufficient flexibility to proceed cautiously in implementing potentially significant structural changes in the marketplace". In the same Release, the Commission approved a proposal by the American Stock Exchange to provide exemptive relief comparable to the NYSE's Rule 98 proposal, but which did not contain any managing underwriter restriction.

In light of the highly volatile nature of the markets in October 1987, the Exchange questions whether it is appropriate to maintain the managing underwriter restriction. To date, little

interest has been shown in the rule as it is currently written. It would appear that the managing underwriter restriction may have acted as a significant barrier to the entry of diversified broker-dealers to the specialist business on this Exchange, with the result that the Exchange markets may have been denied the benefits which the Exchange sought to achieve by virtue of the Rule 98 proposal. In SR-NYSE-85-25, the Exchange noted that the Rule 98 proposal was intended to help strengthen the capital base of the auction market system. The Exchange pointed out that large diversified organizations have the capital to expand their business, and that if such organizations were to enter the specialist business, they could reasonably be expected to provide additional capital for marketmaking on the Exchange.

The Exchange also noted (from the perspective of the marketplace of 1985), that the increasing "institutionalization" of the market and the increasing volatility of trading, would require specialists to commit greater capital, and be willing to assume some additional market risk in accommodating large-size orders and minimizing short-term price fluctuations, in the future. The Exchange observed that the specialist system would benefit singificantly from the additional capital contributions of large diversified organizations which have the financial resources to devote to specalizing and, because of their diversified nature, may have a greater ability to assume risk than an organization whose business consists exclusively of specializing.

(2) Basis Under the Act for Proposed Rule Change

Since, as noted above, the entry into the specialist business of diversified organizations is expected to have beneficial effects on the overall Exchange market, the proposed rule change can be said to promote the purposes of section 6(b)(5) of the Act in that it "remove[s] impediments to and perfect[s] the mechanism of a free and open market * * * and, in general, protect[s] investors and the public interest."

By permitting diversified member organizations to enter a business as to which they may currently be effectively excluded by regulation, the proposed rule change promotes the purposes of section 6(b)(5) in that it is "not designed to permit unfair discrimination between * * * brokers or dealers * * *" In this regard as well, the proposed rule change promotes the purposes of section 6(b)(8) in that it removes a "burden on competition" as to specializing on the Exchange not necessary to further the purposes of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, as discussed above, by facilitating the entry into the specialist business of diversified organizations, the proposed rule change can be said to enhance competition in marketmaking on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited not received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested accelerated effectiveness of the proposed rule change pursuant to section 19(b)(2) of the Act. The Exchange believes there is good cause to accelerate the approval of the proposed rule change because it will facilitate the entry of diversified, well-capitalized organizations into the specialist business, thereby strengthening the capital base of the auction market system during a period of extreme market volatility.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR-NYSE-87-37 and should be submitted by November 18, 1987.

V. Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6(b)(5) and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of the proposal in that easing the underwriting restriction during the current period of extreme market volatility, will allow well-capitalized organizations to enter the specialist business, thereby infusing additional capital into the market system and onto the Exchange floor.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved until May 1, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

Dated: October 22, 1987.

[FR Doc. 87-24913 Filed 10-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25052; File No. SR-PSE-87-24]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

On August 20, 1987, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposal to eliminate all references in the PSE rules to options on the PSE Technology Index.

The proposed rule change was published for comment in Securities Exchange Act Release No. 24876 (September 3, 1987), 52 FR 34333. The Commission did not receive any comments relating to the proposal.

The proposed rule amendment would delete from Exchange rules all reterences to PSE Technology Index options because the trading of such

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1987).

options was terminated as of the September 1987 expiration. The deletions are designed to avoid investor confusion that could arise from continuing to refer in PSE rules to a product that no longer is traded on the Exchange.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [3] and the rules and regulations thereunder. Deletion of all references to the PSE Technology Index will eliminate unnecessary language from the Exchange's rules and help avoid possible investor confusion, thereby protecting investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: October 21, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-24914 Filed 10-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25052; File No. SR-PSE-87-24]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

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The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [3] and the rules and regulations thereunder. Deletion of all references to the PSE Technology Index will eliminate unnecessary language from the Exchange's rules and help avoid possible investor confusion, thereby protecting investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: October 21, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-24916 Filed 10-27-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24481]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 22, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 16, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New England Energy Incorporated (70-7055)

New England Energy Incorporated ("NEEI"), 25 Research Drive, Westborough, Massachusetts 01582, the fuel supply subsidiary of New England Electric System ("NEES"), a registered holding company, has filed a post-effective amendment to its application pursuant to sections 9(a) and 10 of the Act.

Since October 1974, NEEI has engaged in various activities relating to fuel supply for NEES system companies, including participation in ventures for exploration, development and production of oil and gas, the conversion of such production and the sale of fuel oil to its affiliate, New England Power Company.

NEEI seeks authorization to invest up to $30 million in its partnership ("Partnership") with Samedan Oil Corporation, a subsidiary of Noble Affiliates, Inc., during 1988 to meet its share of Partnership expenses for further exploration and development of oil and gas properties acquired through December 31, 1986. NEEI has not participated in new oil and gas prospects initiated by Samedan after December 31, 1986.

Dominion Resources, Inc. (70-7406)

Dominion Resources, Inc. ("DRI"), 701 East Byrd Street, Richmond, Virginia 23219, an exempt holding company, has filed an application pursuant to sections 9(a)(2) and 10 of the Act.

DRI is a holding company that owns all of the voting stock of two public-utility subsidiary companies, Virginia Electric and Power Company ("Virginia Power") and Virginia Natural Gas, Inc. ("VNG"). DRI also has five nonutility subsidiary companies. It is exempted from the provisions of the Act pursuant to Rule 2 thereunder. Virginia Power is engaged in the generation, transmission, and distribution of electric power and energy to retail residential, commercial, and industrial customers in Virginia and North Carolina, including the City of Suffolk, Virginia. As of June 30, 1987, Virginia Power had total assets of $9.1 billion, and its revenues for the 12 months then ended were $3.0 billion. VNG provides retail natural gas service in the Tidewater area of Virginia. As of June 30, 1987, VNG had total assets of $112.1 million, and its revenues for the

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[3] 15 U.S.C. 78f (1982).

[4] 15 U.S.C. 78s(b)(2) (1982).

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1987).

12 months then ended were $107.9 million.

DRI is seeking Commission authorization of the proposed acquisition of all of the outstanding shares of common stock of Suffolk Gas Corporation ("Suffolk"), a natural-gas distribution company. ERI will acquire Suffolk through a statutory share exchange in which each outstanding share of Suffolk common stock, being valued at $26.10 per share, will be transferred to DRI in exchange for an equivalent value in shares of DRI common stock. Upon the completion of the acquisition of Suffolk, DRI intends to contribute the acquired shares of Suffolk to the capital of VNG whereupon Suffolk will be a wholly owned subsidiary of VNG.

Suffolk is a natural-gas distribution utility located in Suffolk, Virginia. Suffolk serves approximately 2,260 natural gas customers, all of whom are located in Suffolk, Virginia. During 1986, Suffolk obtained 90% of its natural gas supplies from Commonwealth Gas Pipeline Corporation and obtained the remaining 10% of its supplies from spot-market purchases. It is stated that Suffolk has competition from fuel oil and propane companies for industrial customers, and from fuel oil, coal, electric, and bottled gas (LP gas) companies for residential and commercial customers. Suffolk's property consists of its utility plant, including a total of 56 miles of gas mains and a total of 47 miles of services. As of June 30, 1987, Suffolk had total assets of $2.49 million, and its revenues for the 12 months then ended were $2.44 million.

It is stated that the acquisition of the common stock of Suffolk by DRI and the subsequent capital contribution of the Suffolk shares to VNG will benefit all three companies. VNG and Suffolk both provide retail natural gas service in the Tidewater area of Virginia, and the operation of Suffolk as a subsidiary of VNG will permit VNG to expand its operations. DRI will be able to expand its investment in the retail gas business. Suffolk, as a part of the DRI holding company structure, will benefit from the services such a structure can provide. In addition, the current Suffolk stockholders will receive shares of DRI common stock in exchange for their Suffolk shares and will benefit from owning shares of stock that are listed on the New York Stock Exchange and have a public market.

The application asserts that although Suffolk will be a wholly owned subsidiary of VNG upon the consummation of the transaction, the companies will be operated as an integrated public-utility system as defined in section 2(a)(29(B) of the Act. Suffolk is located approximately 25 miles from VNG's headquarters in Norfolk, Virginia. Presently Suffolk and VNG each obtain the major portion of its gas supplies from a common source, Commonwealth Gas Pipeline Corporation. After the completion of the transaction, VNG will make gas-supply purchases for both companies. In addition, other aspects of the Suffolk system will be managed and operated by VNG pursuant to a service agreement approved by the State Corporation Commission of Virginia. VNG will assist Suffolk in regulatory matters, including the design of rates and rate-relating filings, and will provide support to Suffolk in the construction and maintenance of distribution facilities. Suffolk will have access to VNG's marketing, customer relations, and public employee information services. VNG will provide accounting services and assist Suffolk in the preparation of tax returns, interpretation of tax laws, and other related tax matters. VNG will also assist Suffolk in the formulation of safety guidelines and practices.

The proposed transaction will also provide Suffolk access to the corporate and financial experience of VNG and DRI, thereby providing Suffolk with a level of specialization and expertise atypical of a smaller utility. Also, the capital resources of VNG and DRI will facilitate expansion of the Suffolk service territory in which further growth and development is expected. DRI believes that given these arrangements, substantial economics will be effected by the proposed transaction.

The acquisition by DRI of the shares of common stock of Suffolk and the subsequent operation of Suffolk as a wholly owned subsidiary of VNG require the approval of the Virginia State Corporation Commission.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-24915 Filed 10-27-87; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of Modifications in Specialty Steel Import Relief

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice establishes country allocations of the quotas presently applicable to imports of certain specialty steel and makes modifications in the Tariff Schedules of the United States to implement changes in the import relief.

EFFECTIVE DATE: October 20, 1987.

FOR FURTHER INFORMATION CONTACT: Robert Cassidy or Elena Bryan, Office of the United States Trade Representative, (202) 395-4510.

SUPPLEMENTARY INFORMATION:

Presidential Proclamation 5679 of July 16, 1987 (58 FR 27308) provided for the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel imported into the United States, pursuant to section 203 of the Trade Act of 1974. Specified steels not produced in the United States or produced in small quantities were exempted for the import relief.

Proclamation 5679 authorizes the U.S. Trade Representative to take such actions and perform such functions for the United States as may be necessary to administer and implement the relief, inlcuding negotiating orderly marketing agreements and allocating quota quantites on a country-by-country basis. The U.S. Trade Representative is also authorized to make modifications in the Tariff Schedules of the United States (TSUS) headnote or items proclaimed by the President in order to implement such actions.

Accordingly, the U.S Trade Representative has determined that the quota quantities should be allocated on a country-by-country basis. These changes are being made as a result of negotiations with Canada, Japan, Korea, Mexico, Poland, Spain, Sweden and Taiwan.

In conformity with the above, paragraphs (c) and (d) of headnote 10, subpart A, part 2 of the Appendix to the TSUS are modified to read as follows:

(c) *Carryover*—Whenever the quota quantity specified for any of the individually named countries for an item has not been entered during any semi-annual restraint period, entry may be made during the subsequent semi-annual restraint period of an amount up to 20 percent (10 percent in the case the case of shortfalls occuring in the second semi-annual restraint period in any quota year) of the base limit for the restraint period in which the shortfall occurs, but not to exceed the difference between the quota quantity specified for such restraint period and the amount entered during that period: and such amount not be counted against the quota quantity therefor.

(d) *Exceeding restraint levels*—The restraint level for any quota quantity allocated to any of the individually named countries may be exceeded by not more than 10 percent during the first semi-annual

restraint period in any quota year, by not more than 3 percent in the second semi-annual restraint period in an quota year and shall not be exceeded in the period from July 20, 1989 through September 30, 1989. If a quota quantity is exceeded during a restraint period, a downward adjustment of the corresponding quota quantity for the next semi-annual restraint period in the absolute amount the preceding restraint level was exceeded shall be made.

TSUS items 926.10 through 926.23 and the superior headings pertaining thereto are modified to read as follows:

Item	Articles	Quota quantity (in short tons) if entered during the restraint period	
		July 20 through January 19	January 20 through July 19
	"Whenever the respective aggregate quantity of articles the product of a foreign country specified below for items 926.10 through 926.23, inclusive, has been entered in any restraint period (whether, for tariff purposes, in schedule 6 or in item 832.00 of schedule 8), no article in such item the product of such country may be entered during the remainder of such restraint period, except as provided in headnote 10:		
	Bars of stainless steel (except stainless steel of the type described in headnote 10(a)(v)), provided for in item 606.90 part 2B, schedule 6:		
926.11	If entered during the period from October 20, 1987, through July 19, 1988, inclusive:		
	Canada	[1] 276	553
	Japan	[1] 3,542	7,085
	Korea	[1]485	971
	Mexico	[1]28	57
	Spain	[1]1,100	2,200
	Sweden	[1]340	680
	Taiwan	[1]25	50
	Other, except as provided in headnote 10(g)(ii) to this subpart	[1]110	215
926.12	If entered during the period from July 20, 1988, through July 19, 1989, inclusive:		
	Canada	565	565
	Japan	7,245	7,245
	Korea	983	984
	Mexico	64	65
	Spain	2,250	2,250
	Sweden	695	696
	Taiwan	51	52
	Other, except as provided in headnote 10(g)(ii) to this subpart	226	223
926.13	If entered during the period from July 20, 1989, through September 30, 1989, inclusive:		
	Canada	233	[2]
	Japan	2,985	[2]
	Korea	405	[2]
	Mexico	27	[2]
	Spain	927	[2]
	Sweden	286	[2]
	Taiwan	21	[2]
	Other, except as provided in headnote 10(g)(ii) to this subpart	92	[2]
	Wire rod of stainless steel (except stainless steel of the type described in headnote 10(a)(v)), provided for in items 607.26, and 607.43, part 2B, schedule 6:		
926.15	If entered during the period from October 20, 1987, through July 19, 1988, inclusive, except as provided for in headnote 10(g)(ii) to this subpart:		
	Japan	1,587	3,174
	Korea	263	525
	Spain	465	931
	Sweden	992	1,984
	Other, except as provided in headnote 10(g)(ii) to this subpart	97	195
926.16	If entered during the period from July 20, 1988, through July 19, 1989, inclusive, except as provided for in headnote 10(g)(ii) to this subpart:		
	Japan	3,246	3,246
	Korea	540	541
	Spain	951	952
	Sweden	2,029	2,029
	Other, except as provided in headnote 10(g)(ii) to this subpart	197	195
926.17	If entered during the period from July 20, 1989, through September 30, 1989, inclusive, except as provided for in headnote 10(g)(ii) to this subpart:		
	Japan	1,337	[2]
	Korea	223	[2]
	Spain	392	[2]
	Sweden	836	[2]
	Other, except as provided in headnote 10(g)(ii) to this subpart	81	[2]

Item	Articles	Quota quantity (in short tons) if entered during the restraint period	
		July 20 through January 19	January 20 through July 19
	Bars, wire rods, plates, sheets, strip, all the foregoing of alloy tool steel (except chipper knife steel, band saw steel, rotor steel for hysteresis motors and tool steel of the type described in headnote 10(a)(viii)), provided for in items 606.95, 607.28, 607.34, 607 46, 607.54, 607.72, 607.88, 608.34, 608.49, and 608.64 and round wire of high speed tool steel, provided for in item 609.45 part 2B, schedule 6:		
926.19	If entered during the period from October 20, 1987 through July 19, 1988, inclusive, except as provided for in headnote 10(g)(ii) to this subpart:		
	Canada	397	793
	Japan	1,156	2,313
	Korea	381	762
	Mexico	64	130
	Poland	85	171
	Spain	45	92
	Sweden	2,182	4,364
	Other, except as provided in headnote 10(g)(ii) to this subpart	84	163
926.20	If entered during the period from July 20, 1988, through July 19, 1989, inclusive, except as provided for in headnote 10(g)(ii) to this subpart:		
	Canada	811	812
	Japan	2,364	2,365
	Korea	786	785
	Mexico	139	139
	Poland	167	168
	Spain	94	94
	Sweden	4,463	4,463
	Other, except as provided in headnote 10(g)(ii) to this subpart	164	163
926.21	If entered during the period from July 20, 1989, through September 30, 1989, inclusive, except as provided for in headnote 10(g)(ii) to this subpart:		
	Canada	334	[2]
	Japan	974	[2]
	Korea	324	[2]
	Mexico	57	[2]
	Poland	69	[2]
	Spain	39	[2]
	Sweden	1,838	[2]
	Other, except as provided in headnote 10(g)(ii) to this subpart	68	[2]

[1] October 20, 1987 through January 19, 1988.
[2] The relief expires on September 30, 1989.

I have determined that the above allocations and other changes in the import relief are appropriate to carry out the authority granted by the President to the U.S. Trade Representative and the obligations by the United States, with due consideration to the interests of the domestic producers of such specialty steel. This action is subject to further modification.

Clayton Yeutter,

United States Trade Representative.

[FR Doc. 87-24985 Filed 10-27-87 8:45 am]

BILLING CODE 3190-01-W

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Minority Business Resource Center Advisory Committee; Rescheduling of Meeting Site

This notice is given to advise of the rescheduling of the meeting site of the Minority Business Resource Center Advisory Committee meeting originally scheduled to be held at the Hyatt Regency Miami, 400 SE 2nd Avenue, Miami, Florida. Notice of meeting was published in the **Federal Register** issue of October 14, 1987 (FR 87-23746).

Notice is hereby given of the rescheduling of said meeting for Wednesday, November 18, 1987, at 5:30 p.m. at the Holiday Inn Brickell Point, 495 Brickell Avenue, Room: Ottawa, Miami, FL 33131.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Josie Graziadio, Office of Small and Disadvantaged Business Utilization, 400 7th Street, SW., Washington, DC, 20590, telephone (202) 366-1930. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on October 23, 1987.

Amparo B. Bouchey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 87-24971 Filed 10-27-87; 8:45 am]

BILLING CODE 4910-62-M

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB on October 23, 1987

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on October 23, 1987, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street SW., Washington, DC 20590, telephone (202) 366-4735, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on October 23, 1987.

DOT No.: 2979
OMB No.: 2127-0038
Administration: National Highway Traffic Safety
Title: Assigning DOT Code Numbers to Glazing Manufacturers
Need for Information: This requirement is needed to ensure traceability to the proper manufacturer for enforcement purposes
Proposed Use of Information: Standard 205 requires that all automotive glazing be certified by affixing a DOT Code Number, assigned by the National Highway Traffic Safety Administration, on glazing materials. This system deals with the assignment of DOT Code Number.
Frequency: On occasion
Burden Estimate: 9 hours
Respondents: 18
Form(s): None

DOT No.: 2980
OMB No.: 2127-0512
Administration: National Highway Traffic Safety
Title: Consolidated Labeling Requirements for Motor Vehicles (Except the VIN Numbers) 49 CFR 571.105, 205, 209 and Part 567.
Need for Information: To show performance requirements for the protection of vehicle occupants in crashes.
Proposed Use of Information: Motor vehicles and motor vehicle equipment must be properly labeled to provide for safe operation by users and to unsure prompt identification of such equipment in the event of safety related defects.
Frequency: On occasion
Burden Estimate: 73,312 hours
Respondents: 1,214
Form(s): None

DOT No.: 2981
OMB No.: 2130-0517
Administration: Federal Railorad Administration
Title: Supplemental Qualifications Statement for Railroad Safety Inspector Applicants
Need for Information: To determine specialized skills of inspector applicants.
Proposed Use of Information: To rate and rank the qualifications of applicants for Railroad Safety Inspector positions.
Frequency: On occasion
Burden Estimate: 4,650 Hours
Respondents: Individuals
Form(s): FRA-F-120

DOT No.: 2982
OMB No.: 2137-0510
Administration: Research and Special Programs
Title: RAM Transportation Requirements
Need for Information: To establish a central repository for designated state routes that may be used in the transporting of radioactive materials. This will enable carriers to go to one source rather than several in determining routes to be followed when transporting radioactive materials in interstate commerce
Proposed Use of Information: To maintian a centralized source for information as to which routes have been designated by various states for use in transporting radioactive materials
Frequency: On occasion
Burden Estimate: 15,034 hours
Respondents: State Governments; carriers and shippers of radioactive materials
Form(s): None

DOT No: 2983
OMB No: 2137-0034
Administration: Research & Special Programs
Title: Hazardous Materials Shipping Papers
Need for Information: Shipping papers serve as the basic source of information relative to the presence of hazardous materials, their quantity and identification. They serve as the principal source of information for compliance with other requirements, such as the placement of railcars containing different materials in trains, preclusion of loading poisons with foodstuffs, separation of incompatible explosives, etc
Proposed Use of Information: Shipping papers are the basic hazard communication tool relative to transportation of hazardous materials—shippers, carriers, etc., use them to inform others of the presence of hazardous materials.
Frequency: Each shipment of hazardous materials
Burden Estimate: 5,590,000 hours
Respondents: Shippers of hazardous materials
Form(s): None

DOT No: 2984

OMB No: 2132–500 (Section 16(b)(2))
Administration: Urban Mass Transportation Administration
Title: Section 18 and 16(b)(2) Program Requirements
Need for Information: The information collected is used by UMTA's Regional Offices to determine eligibility for grant benefits and ensures compliance with Federal requirements. The information is also used by UMTA Headquarters for program management and evaluation
Proposed Use of Information: The information is used by UMTA Headquarters for program management and evaluation
Frequency: Annual, On occasion, Semi-annually
Burden Estimate: 12,569 hours
Respondents: State or Local Government
Form(s): SF–269 and SF–424

DOT No: 2986
OMB No: 2137–0572
Administration: Research and Special Programs
Title: Standards for Polyethylene Packagings
Need for Information: To establish safety standards in the hazardous materials regulations for polyethylene packagings to be used in the shipment of hazardous materials
Proposed Use of Information: To make a determination that polyethylene packagings meet the safety standards set forth in the hazardous materials regulations for use in the transportation of hazardous materials
Frequency: Other—Nonrecurring
Burden Estimate: 60 hours
Respondents: 30
Form(s): None

DOT No: 2987
OMB No: 2115–0071
Administration: U.S. Coast Guard
Title: Official Logbook
Need for Information: This information is needed to keep official records of all voyages as well as load line and testing records
Proposed Use of Information: Coast Guard uses this information to determine compliance with the commercial vessel safety program, and to examine casualty investigations/federal and civil courts use this information in cases of injury or litigation between seaman and shipping companies
Frequency: On occasion
Burden Estimate: 1,750 hours
Respondents: U.S. Merchant Mariners and shipping companies
Form(s): CG–706B

DOT No: 2988
OMB No: 2115–0546
Administration: U.S. Coast Guard
Title: Sailing School Vessel
Need for Information: The Coast Guard needs this information collection requirement to: (1) Determine if a vessel meets the conditions to be designated as a sailing school vessel; (2) ensure that the respondents have adequate financial resources to protect persons on board the vessel; (3) ensure that the respondents meet the tax-exempt law; (4) ensure that individuals understand that they are in a training atmosphere and are expected to assist in the operation of the vessel; and (5) ensure the safety of the vessel and all persons on board
Proposed Use of Information: This information is used to properly administer and enforce the sailing school inspection program and to determine if a vessel meets the conditions to be classified as a sailing school vessel
Frequency: On occasion
Burden Estimate: 105 hours
Respondents: Owners/operators of sailing school vessels
Form(s): N/A

DOT No: 2989
OMB No: 2133–0032
Administration: Maritime Administration
Title: Application for Construction Reserve Fund and Monthly Bank Statements
Need for Information: An application to obtain benefits of the CRF Program must be submitted by interested parties. Bank statement is needed to verify account activity
Proposed Use of Information: Application used to verify applicant eligibility. Bank statement used to administer CRF account
Frequency: On occasion, monthly
Burden Estimate: 144 hours
Respondents: Ship owners, ship operators
Form(s): N/A.

Issued in Washington, DC on October 23, 1987.

Richard B. Chapman,

Acting Director of Information Resource Management.

[FR Doc. 87–24947 Filed 10–27–87; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

[Summary Notice No. PE–87–28]

Petition for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Noticeof petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comment on petitions received must identify the petition docket number involved and must be received on or before November 18, 1987.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 915G, FAA Headquarters Building (FOB 19A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on October 22, 1987.

Denise D. Hall,

Acting Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
20853	United Airlines, Inc.	14 CFR 121.99 and 121.351(a)	To allow petitioner to operate its airplanes in extended overwater operations over any airway or other approved route over the Western Atlantic, Caribbean Sea, and the Gulf of Mexico with one High Frequency (HF) Communication Radio System and one Long Range Navigation System (LRNS). This exemption would extend Exemption No. 3122B, as amended.
24113	Flight Training International, Inc.	14 CFR 61.63(d) (2) and (3) and 61.157(d)(1)	To allow trainees of petitioner, who are applicants for an airline transport pilot certificate or a type rating to be added to any grade of pilot certificate, to substitute the practical test requirements of § 61.157(a) for those of § 61.63(d) (2) and (3) and to complete a portion of that practical test in a simulator as authorized by § 61.157(d).
25350	Austin Jet Corporation	14 CFR 135.169(a), 121.312(b), and 25.853(c).	To allow petitioner to operate certain aircraft without complying with seat cushion flammability standard of § 25.853 for a period of 1 year beyond the implementation date of November 26, 1987.
25357	Venture Airways	14 CFR 135.169(a) and 25.853(c)	To allow petitioner to operate certain aircraft without complying with seat cushion flammability standards of § 25.853 for a period of 4 years beyond the implementation date of November 26, 1987.
25359	Aviation Group, Inc.	14 CFR 135.169, 121.312, and 25.853(c)	To allow petitioner to operate certain aircraft without complying with the seat cushion flammability standards of § 25.853 for an unspecified period of time beyond the implementation date of November 26, 1987.
25361	Jet Fleet Corporation	14 CFR 135.169 and 25.853	To allow petitioner to operate certain aircraft without compliance with the seat cushion flammability standards of § 25.853 for an unspecified period of time beyond the implementation date of November 26, 1987.
25362	Mesaba Aviation, Inc.	14 CFR 121.371(a) and 121.378	To allow petitioner to contract with Hans and Sussex Aviation Limited and/or Hong Kong Aircraft Engineering Company Limited for inspection, repair, and overhaul of its Rolls Royce Dart engines and Dowty Rotol propellers and their respective accessories and parts in support of its F-27 aircraft.
25363	Panorama Flight Service, Inc.	14 CFR 135.169 and 25.853	To allow petitioner to permanently operate certain aircraft without complying with seat cushion flammability standards of § 25.853 after the implementation date of November 26, 1987.
25364	Aviation Methods, Inc	14 CFR 135.169(a) and 25.853(c)	To allow petitioner to operate certain aircraft without complying with the seat cushion flammability standards of § 25.853 for a period of 4 years beyond the implementation date of November 26, 1987, or until each aircraft is re-outfitted, whichever may occur first.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
22473	Pan Am Express	14 CFR 93.123	Petitioner requests an extension of current Exemption No 3752C which permits two additional commuter operations per hour at Washington National Airport. The additional slots may be used only by STOL aircraft. Continuation of the exemption would permit further evaluation of RNAV approaches to the cross runways at National Airport.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought, disposition
22192	Richmor Aviation, Inc.	14 CFR 141.91(a)	To allow petitioner to conduct flight training and instruction in its approved courses of training at its satellite bases located at Ballston Spa, New York; Scotia, New York; and Poughkeepsie, New York. *Granted, October 9, 1987.*
25195	Loral Systems Group	14 CFR 45.27(b)	To allow petitioner to place the registration markings on the outboard surface of each propulsion duct on its G2-22 airship. *Granted, October 14, 1987.*
25298	Simmons Airlines, Inc.	14 CFR 121.37(a) and 121.378	To allow petitioner to have foreign original equipment manufacturers (OEM) inspect, repair, and overhaul selected aircraft parts necessary to support its Aerospatiale twin-engine turboprop ATR-42 and Short Brothers twin-engine turboprop SD3-60 aircraft program. *Granted, October 13, 1987.*

[FR Doc. 87-24900 Filed 10-27-87; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement, Northampton County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Northampton County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Philibert A. Ouellet, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108, Telephone: (717)782-4422.

or

Matthew F. Mazza, District Engineer, Pennsylvania Department of Transportation, Engineering District 5-0, 1713 Lehigh Street, Allentown, Pennsylvania 18103.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation and the County of Northampton, will prepare an Environmental Impact Statement (EIS) on a proposal to complete the construction of State Route (SR) 33 in Northampton County. The proposal would involve the construction of SR 33, a new limited access highway, from the existing SR 33 terminus at US 22 for approximately 3 miles south to a new terminus and interchange at Interstate 78. Interchanges are being proposed at SR 2020 (William Penn Highway), SR

2018 (Freemansburg Road), and I-78. Full and partial diamond configurations will be evaluated at SR 2020 and SR 2018 and a high speed flyover type interchange with I-78. Completion of the remainder of this highway section will provide the missing link in the inter regional traffic network by connecting I-78 and the Lehigh Valley with the Stroudsburg-Pocono Region and the Interstate 80 corridor which will provide energy and travel time savings and increase the opportunity for economic development in the region and in the area immediately adjacent to the proposed extension.

The relative short length of the proposed project limits the number of alternatives available for consideration. Two design alternatives, each with different alignment, profile and interchange configuration will be evaluated, as will a no build alternative.

This EIS is being initiated as a result of on-going public involvement processes which have resulted in a consensus of local government bodies expressing a desire to complete this project. The EIS process will include detailed studies of Air Quality, Noise, Social and Economic Considerations, Land Use, Ecology, Water Quality, Cultural Resources, Farmlands, Traffic and Transportation, and Wetlands, as well as a section 4(f) Evaluation.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have expressed interest in the proposal. Scoping meetings are planned with the agencies between October 1987 and January 1988. A series of public meetings will be held in Northampton County in the fall of 1987, and winter and spring of 1988. In addition, a public hearing will be held. Public notice will be given of the time and place of these meetings and the hearing. The draft EIS will be available for public and agency review and comment. To ensure that the full range of issues to the proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, regarding State and local review of Federal and Federally assisted programs and projects apply to this program.)

Phil Ouellet,

District Engineer, Harrisburg, Pennsylvania.

[FR Doc. 87-24922 Filed 10-27-87; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

[P-001]

Exception to Charter Policy; Hawaiian Submarines, Inc.

ACTION: Extension of public comment period.

SUMMARY: Today's notice announces an extension of the public comment period until November 9, 1987, for a proposed Agency decision (52 FR 36486, September 29, 1987) to approve the bareboat charter of eight groups of vessels (each group being comprised of a submarine, a tender and a passenger launch), by Hawaiian Submarines, Inc., Honolulu, Hawaii, to Atlantis Submarines, Inc. (Atlantis), a Hawaiian corporation, that does not meet the requirements for United States citizenship in 46 App. U.S.C. 802. The vessels would be chartered for a period of 17 years, commencing late 1987, for the carriage of tourists on short underwater trips to view coral reefs, sunken vessels, and the like in Hawaii. The comment period for the proposed decision was originally scheduled to end on October 29, 1987. Today's notice responds to requests for an extension of time from Graham & James, and Crowley Maritime Corporation.

Send original and one copy of comments to the Secretary, Maritime Administration, Department of Transportation, Rm. 7300, 400 Seventh Street SW., Washington, DC 20590. Anyone submitting comments who wishes acknowledgment of their receipt by MARAD should include a stamped, self-addressed postcard or envelope.

Dated: October 23, 1987.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 87-24948 Filed 10-27-87; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: October 22, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0922
Form Number: 8329/8330
Type of Review: Resubmission
Title: Lender's Information Return for Mortgage Credit Certificates (MCCs)—Form 8329; Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs)—Form 8330
Description: These forms will be used by lending institutions who issued qualified indebtedness amounts based on mortgage credit certificates. The information on this form will be matched with the information supplied by the issuers of MCCs.
Respondents: State or local governments, Businesses or other for-profit
Estimated Burden: 27,511 hours
Clearance Officer: Garrick Shear, (202) 535-4297, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-24890 Filed 10-27-87; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C., Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping

requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. USIA is requesting approval of an information collection which requires prospective grantees to sign a statement that they, if awarded a grant, comply with provisions of the Civil Rights Act of 1964, the Rehabilitation Act of 1973 and the Education Amendments of 1972 regarding discrimination. Respondents will be required to respond only one time.

DATE: Comments must be received by November 30, 1987.

Copies: Copies of the Request for Clearance (SF-83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Retta Graham-Hall, United States Information Agency, M/ASP, 301 4th St., SW., Washington, DC 20547. Telephone (202) 485-7501, and OMB review: Francine Picoult, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. Telephone (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Title: "Assurance of Compliance with USIA Regulations."

Abstract: Signing the "Assurance of Compliance with USIA Regulations" form indicates a commitment on the part of the grantee to comply with the three statutes referred to in the Summary above, as required by law. This assurance is given in connection with any and all financial assistance from the U.S. Information Agency after the date the form is signed, including payments after that for financial assistance approved previously. The applicant recognizes and agrees that any such financial assistance will be extended in reliance on the representations and agreements made in this assurance, and the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the applicant, its successors, and on the transferees, and assignees, and on the authorized official whose signature appears on the form.

Proposed Frequency of Responses: No. of Respondents—200; Recordkeeping Hours—0; Total Annual Burden—2.

Dated: October 22, 1987.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 87-24924 Filed 10-27-87; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Commission To Assess Veterans' Education Policy; Meeting

The Veterans Administration gives notice that a meeting of the Commission to Assess Veterans' Education Policy, authorized by section 320 of Pub. L. 99-576, will be held in Room 1015 of the Veterans' Administration Central Office, 810 Vermont Avenue, NW., Washington, DC, 20420, on November 16, 1987, at 9 a.m. The purpose of this meeting will be to review various aspects of the administration of veterans' education programs for the purpose of making recommendations to the Administrator and the Congress as the Commission determines appropriate. In addition, the Commission will review preliminary results of requests for feedback from various individuals involved in the administration of GI Bill benefits.

The meeting will be open to the public. Due to limited seating capacity, it will be necessary for those wishing to attend to contact Ms. Babette V. Polzer, Executive Director, Commission to Assess Veterans' Education Policy (phone: (202) 233-2886) prior to November 11, 1987.

Interested persons may attend or submit prepared statements for the Commission. Statements may be filed with the Executive Director for the Commission, c/o the Veterans' Administration (226D), 810 Vermont Avenue, NW., Room 427-D, Washington DC, 20420.

Dated: October 23, 1987.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 87-24949 Filed 10-27-87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 208
Wednesday, October 28, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the following matter will be added to the "discussion agenda" for consideration at the open meeting of the Board of Directors of the Federal Deposit Insurance Corporation scheduled to be held at 2:00 p.m. on Tuesday, October 27, 1987, in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC:

Memorandum re: Extending the time period in which the Corporation may take final action on proposed amendments to Part 332 of its rules and regulations concerning real estate development and insurance underwriting activities by insured banks:

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: October 26, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-25053 Filed 10-26-87; 3:12 pm]

BILLING CODE 6714-01-M

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 4:30 p.m., Tuesday, November 3, 1987.

PLACE: Ramada Renaissance Hotel, 4736 Best Road, College Park, Georgia 30337, (404) 762-7676.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Request for Exemption from § 701.21(h)(2)(ii), NCUA Rules and Regulations. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
3. Special Assistance under section 208 of the Federal Credit Union Act. CLosed pursuant to exemptions (8) and (9)(A)(ii).
4. Agency Adjudication. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).

TIME AND DATE: 1:30 p.m., Wednesday, November 4, 1987.

PLACE: Ramada Renaissance Hotel, 4736 Best Road,College Park, Georgia 30337, (404) 762-7676.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Board Meeting.
2. Economic Commentary.
3. Central Liquidity Facility Report and Review of CLF Lending Rate.
4. Insurance Fund Report.
5. National Credit Union Share Insurance Fund Dividend and Insurance Premium.
6. Fiscal Year 1988 Operating Fee Assessment.
7. Charter Aplication: Common Ground Community Federal Credit Union.
8. Final Amendments to Parts 701, 703, and 721, NCUA Rules and Regulations.
9. Proposed Rule: Repeal of § 701.10 regarding Establishment of a Cash Fund, and Amend § 748.0 Security Program.
10. Final Rule: Repeal of § 701.13, NCUA Rules and Regulations, Financial and Statistical and Other Reports.
11. Proposed Rule: Revision to § 701.20, NCUA Rules and Regulations, Surety Bonds.
12. Regulatory Review: § 701.38, NCUA Rules and Regulations Borrowed Funds from Natural Persons.
13. Report on Request for Comments regarding Secondary Mortgage Market Enhancement Act of 1984.
14. Legislative Update.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 357-1100.

Becky Baker,

Secretary of the Board.

[FR Doc. 87-25048 Filed 10-26-87; 3:00 pm]

BILLING CODE 7535-01-M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (52 FR 38833 October 19, 1987).

STATUS: Open meeting.

PLACE: 450 5th Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, October 14, 1987.

CHANGES IN THE MEETING: Rescheduling.

The following item previously scheduled for Tuesday, October 20, 1987 has been rescheduled for Thursday, October 29, 1987, at 9:30 a.m.:

Consideration of whether to adopt Rule 6c-9 and Form N-6C9 under the Investment Company Act of 1940. Rule 6c-9 would provide an exemption from the provisions of the Act, under certain conditions, to permit foreign banks to offer their own debt securities or non-voting preferred stock in the United States without registering as investment companies or obtaining exemptive orders. The exemption would also be available where a foreign bank offers its securities in the United States indirectly through a finance subsidiary. The form would be filed by a foreign bank or foreign finance subsidiary to appoint a United States agent for service of process. For further information, please contact Ann M. Glickman at (202) 272-3042.

Commissioner Peters, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, in any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272-2149.

Jonathan G. Katz,

Secretary.

October 26, 1987.

[FR Doc. 87-25058 Filed 10-26-87; 3:26 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 52, No. 208
Wednesday, October 28, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-434-F]

Medicare Program; Standards for the Reuse of Hemodialyzer Filters and Other Dialysis Supplies

Correction

In rule document 87-22938 beginning on page 36926 in the issue of Friday, October 2, 1987, make the following correction:

On page 36934, in the second column, in the authority citation for Subpart U, insert "1861" after "1102."

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWP-11]

Revision to the Sacramento Metropolitan Airport, CA; Control Zone

Correction

In rule document 87-22226 appearing on page 36230 in the issue of Monday, September 28, 1987, make the following correction:

§ 71.171 [Corrected]

In the third column, in § 71.171, in the 16th line, "38°44'43"" should read "38°41'43"".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-87-27]

Petitions for Exemption; Summary of Petitions Received

Correction

In notice document 87-24183 appearing on page 38991 in the issue of Tuesday, October 20, 1987, make the following correction:

In the second column of the page, under **DATE**, the date in the fourth line should read "November 9, 1987."

BILLING CODE 1505-01-D

federal register

Wednesday
October 28, 1987

Part II

Environmental Protection Agency

40 Parts 141, 142, and 143
Drinking Water Regulations; Public Notification; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141, 142, and 143

[WH-FRL-3254-6]

Drinking Water Regulations; Public Notification

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: This action under section 1414(c) of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300f *et seq.*, amends the general public notification regulations found at 40 CFR 141.32, and amends the public notification requirements for exceedances of the National Secondary Drinking Water Regulations for fluoride found at 40 CFR 143.5, to make them consistent with the new general public notification requirements. These changes apply to owners and operators of public water systems which fail to comply with certain requirements of the National Primary Drinking Water Regulations (NPDWRs), or certain monitoring requirements, and owners or operators of public water systems which have a variance or exemption. EPA is establishing requirements regarding the manner, form, content and frequency of the public notice.

In addition, EPA is promulgating new public notification requirements regarding lead contamination of drinking water to implement section 1417(a)(2) of the SDWA. The new public notification requirements for lead require public water systems to identify and provide notice to persons who may be affected by lead contamination in their drinking water, where such contamination results from the use of lead in the construction materials of the distribution system. These notification requirements, which apply to owners and operators of community and non-transient non-community water systems, apply in addition to the general public notification requirements for lead. EPA is today establishing requirements regarding the content, form, manner, and frequency of the lead notice.

Finally, EPA is amending the State implementation regulations found at 40 CFR Part 142, Subpart B to require States to adopt, at a minimum, the general public notification requirements found in revised § 141.32, and procedures for implementing § 141.32(b)(3)(iii), which allows States to extend the public notification time frames for certain Tier 2 monitoring violations from three months to one year.

EFFECTIVE DATE: The amended general public notice requirements under new 40 CFR 141.32, will take effect April 28, 1989. The public notice requirements for lead found at 40 CFR 141.34, the amended public notification requirements for violations of the Secondary Maximum Contaminant Level (SMCL) for fluoride found at 40 CFR 143.5, and the amended State implementation requirements found at 40 CFR Part 142, Subpart B will take effect November 27, 1987. The redesignation of 40 CFR 141.32 as 40 CFR 141.36 and the new introductory text are effective November 27, 1987. Section 141.36 expires April 28, 1989. In accordance with 40 CFR 23.7, this regulation shall be considered final Agency action for the purposes of judicial review at 1:00 p.m. eastern time on November 12, 1987.

ADDRESSES: Public comments and supporting documents for this rulemaking are available for review during normal business hours at EPA, Room 1101 East Tower, USEPA, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ralph Langemeier, Chief, Drinking Water Branch, Water Management Division, Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone (913) 236-2815; or Carl Reeverts, Deputy Director, State Programs Division, Office of Drinking Water, 401 M Street, SW., Washington, DC 20460, telephone (202) 382-5522.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Statutory and Regulatory Background

A. Statutory Authority

On June 19, 1986, the Safe Drinking Water Act, 42 U.S.C. 300f, *et seq.*, ("SDWA" or "the Act") was amended. Section 1414(c), as amended, requires owners or operators of public water systems to notify the persons they serve when certain violations of the National Primary Drinking Water Regulations (NPDWRs) or certain monitoring requirements occur, when variances or exemptions are in effect, and when a system fails to comply with any schedule prescribed pursuant to a variance of exemption. The amendments require that EPA amend the existing public notification rule "to provide for different types and frequencies of notice based on the differences between violations * * * tak[ing] into account the seriousness of any potential adverse health effects which may be involved." Under the amendments, EPA must prescribe the form, manner, and frequency for giving notice under section 1414(c).

The SDWA amendments also added a new section 1417 prohibiting the use of certain lead pipe, solder, and flux in (1) the installation or repair of any public water system; or (2) any plumbing in a residential or nonresidential facility connected to a public water system and providing water for human consumption. Section 1417(a)(2) requires each public water system to identify and provide notice to persons who may be affected by lead contamination in their drinking water, where such contamination results from either the lead content in the construction materials of the system and/or corrosivity of the water sufficient to cause leaching of lead from plumbing systems. The Act requires notification even if the system is in compliance with the maximum contaminant level (MCL) for lead.

Section 1417(b) provides that the lead public notification requirements in section 1417(a)(2) shall be enforced in all States as of June 19, 1988. EPA is authorized to withhold up to five percent of a State's section 1443(a) public water system supervision program grant if the Agency determines that the State is not

enforcing the prohibition and public notice requirements for lead.

B. Regulatory Background

On April 6, 1987, EPA proposed at 52 FR 10972 to amend the general public notification regulations (40 CFR 141.32), the public notification regulations for violations of the Secondary Maximum Contaminant Level (SMCL) for fluoride (40 CFR 143.5), and the State implementation regulations regarding public notification (40 CFR Part 142, Subpart B). In addition, EPA proposed new notification requirements regarding lead contamination of drinking water to implement section 1417(a)(2) of the Act.

The general public notification requirements found at 40 CFR 141.32 were promulgated on December 24, 1975 (40 FR 59570), and were subsequently amended on August 27, 1980 (45 FR 57345) and April 2, 1986 (51 FR 11412). EPA promulgated public notification regulations for violations of the fluoride SMCL, found at 40 CFR 143.5(b) of the National Secondary Drinking Water Regulations, on April 2, 1986 (51 FR 11412). EPA promulgated the State implementation regulations found at 40 CFR Part 142, Subpart B on January 20, 1976 (41 FR 2918). There are no existing requirements for public notification for lead (except that systems which violate the lead NPDWR are subject to the general public notification requirements in 40 CFR 141.32).

C. Public Comments on the Proposal

EPA requested comments on all aspects of the April 6, 1987 proposal. A summary of the major comments, and the Agency's response to the issues raised, are presented in the following section. A detailed recitation of the comments received and the Agency's responses are presented in the document "Response to Comments Received on the Proposed Public Notification Requirements of April 6, 1987," which is available in the public docket for this rulemaking.

EPA received 68 written comments on the proposed rule. Of the comments received, one was from an individual, 24 were from companies, 16 were from public or professional organizations, and 27 were from Federal agencies, States, and local governments.

EPA held a public hearing on May 1, 1987. Two representatives of professional organizations made oral statements at that time.

II. Summary and Explanation of Today's Actions

A. General Public Notification Requirements

1. Two-tiered Hierarchy for Violations

To better reflect the SDWA requirements for public notification, EPA proposed a two-tiered classification of violations based on violation type, in contrast to the original classification system which organized the public notification requirements according to type of public water system. Tier 1 violations included the more serious violations and were subject to more stringent public notification requirements; Tier 2 violations included less serious violations and were subject to less stringent public notification requirements. Tier 1 violations included failure to comply with the maximum contaminant level (MCL) established by EPA in a national primary drinking water regulation (NPDWR) and failure to comply with a prescribed treatment technique established in lieu of an MCL. Tier 2 violations included failure to comply with monitoring requirements, failure to comply with a testing procedure prescribed by an NPDWR, operating under a variance or exemption, and failure to meet a variance or exemption schedule. In the proposed rule, EPA requested comment on the classification system in general and the option of classifying certain monitoring and testing procedure violations as Tier 1, rather than Tier 2, as proposed.

The majority of commenters expressed general support for a two-tiered system for classification of violations. However, some commenters suggested a different classification of violations within the system. Several commenters stated that failure to comply with a variance or exemption schedule should be classified as a Tier 1, rather than Tier 2, violation. They reasoned that since a system operating under a variance or exemption does not have to comply with the NPDWR (including either an MCL or treatment technique), that failure to comply with any condition established for the operation of the system for the duration of the variance or exemption may put the public at increased risk. EPA agrees, and has modified the proposed tier structure to include a violation of a variance or exemption schedule in Tier 1.

Another commenter stated that treatment technique violations should be moved from Tier 1 to Tier 2 since prescribing a treatment technique replaces monitoring that is impractical or excessively expensive; thus treatment technique violations are equivalent to monitoring violations which are Tier 2. EPA disagrees. Sections 1401(1)(C)(ii) and 1412(b)(7)(A) of the SDWA provide that, where it is not economically or technologically feasible to ascertain the level of a contaminant in drinking water, EPA may specify treatment techniques for that contaminant in lieu of a numerical standard, i.e., MCL. A treatment technique is a comprehensive set of requirements to control a contaminant, not simply a substitute for monitoring. (In fact, an NPDWR specifying a treatment technique may well include certain monitoring requirements.) The Act thus equates MCLs and treatment techniques specified in lieu of MCLs as equivalent. Therefore, EPA believes that it is appropriate to classify treatment technique violations, as well as MCL violations, as Tier 1 violations and has made no change in the final rule.

Other commenters indicated that the regulations should not treat all MCL violations as Tier 1 violations, but that some distinction should be made between MCLs for contaminants that pose an acute risk and MCLs for contaminants that pose a chronic risk. For example, some commenters recommended that MCL violations for microbiological contaminants and nitrate be classified as Tier 1, and that chemical/radiological violations be classified as Tier 2. These commenters stated that little benefit may result from public notification for violations of NPDWRs for contaminants with chronic health effects unless the concentrations are extraordinarily high. One commenter suggested that an intermediate tier be created for MCL violations for non-microbiological contaminants. EPA has considered these comments and remains convinced that all MCL violations should be classified as Tier 1. Section 1412 of the SDWA requires EPA to specify those contaminants which may have an adverse effect on the health of persons, and to promulgate NPDWRs for them. While certain adverse health effects may generally be observed to occur within a population as a result of long-term exposure, individual variation within that population may mean that short-term exposure will affect the more sensitive individuals within the group. In addition, certain chemical/radiological contaminants—lead, for example—may produce subtle adverse effects early on in the exposure period which do not become grossly apparent until substantial damage has occurred. EPA

therefore believes that treating all MCL violations as Tier 1 is the most prudent means for safeguarding as far as possible the health of consumers. Also, one of the main differences in the notification requirements between Tier 1 and Tier 2 violations is when the first notice must be given, i.e., within 14 days for tier 1 and within three months for tier 2 (with potential extension to one year for certain Tier 2 violations at the discretion of the State). Since the statute requires the notice of an MCL violation be given within 14 days, there is no option under EPA's classification for reclassifying a subset of MCL violations from Tier 1 to Tier 2.

One commenter proposed that EPA require public notification when the State believes that the raw water source may be contaminated. EPA believes that routine public notification in situations where the raw water source may be contaminated is beyond the scope of section 1414(c) of the SDWA, which specifically lists the situations where public notification is required. Under section 1431(a) of the SDWA, however, "* * * upon receipt of information that a contaminant which is present in or is likely to enter a public water system or an underground source of drinking water may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, [EPA] may take such actions as * * * necessary to protect the health of such persons * * *" EPA believes this provision gives EPA the authority to require public notification when contamination of source water threatens public water supplies. Likewise, section 1431 of the Act requires a State, as a condition for obtaining primary enforcement responsibility for public water systems, i.e., "primacy," to demonstrate that it has "adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances." In developing an adequate plan, it may well be necessary to provide for notification of consumers concerning the condition of their raw water source. It should also be noted that, while States will be required to adopt the two-tiered system made final today, nothing precludes a State from requiring public notification in additional situations. In light of the above, EPA has not added the requirement proposed by the commenter.

A number of commenters suggested that (1) monitoring violations be broken down into Tier 1 and Tier 2 monitoring violations, and (2) EPA specifically address the question of public notice for "trivial" monitoring violations. With regard to the classification of some monitoring violations as Tier 1 and others as Tier 2, some commenters suggested that a "persistent" violation of the monitoring requirements for microbiological contaminants be classified as a Tier 1 violation. Other commenters suggested that EPA classify "repeated" monitoring and testing procedure violations as Tier 1 violations. Still other commenters suggested that EPA classify all monitoring violations as Tier 1 violations since failure to comply with the monitoring requirements may result in failure to disclose an MCL violation (which would be a Tier 1 violation). In fact, a system that suspects it is in violation of an MCL might choose to forego monitoring if monitoring violations are classified as Tier 2 violations, since it would only have to report a failure to monitor under the less stringent notification requirements for Tier 2 violations, rather than report an MCL violation under the more stringent Tier 1 notification requirements. EPA agrees with the commenters that failure to monitor may in some circumstances disguise an MCL violation; however, it is difficult to establish by general rule at what point a number of monitoring failures is significant enough to justify classification as a Tier 1 violation requiring more prompt public notification. Also, a monitoring violation may be of short duration (e.g., taking a chemical/radiological sample several days past the sampling date, rather than not taking the sample at all). EPA has decided not to reclassify any monitoring violations to Tier 1, principally because a more detailed tier structure would be too complex to implement and it would preclude State flexibility to tailor notification requirements to the severity of the local problem. EPA is concerned that classifying too many violations as Tier 1 could result in so many notices that the consumer might begin to ignore them.

With regard to the question of public notice for "trivial" violations, EPA does recognize that occasional missed samples, sampling errors, use of an incorrect sampling frequency, and other similar Tier 2 monitoring violations should not require the same level of notice as other Tier 2 violations. Several commenters suggested that EPA provide for waivers from public notification requirements for these minor violations; however, EPA does not interpret section 1414(c) of the SDWA to allow for waiver of notice for any violation. Rather, the Act specifically states that notice of continuous violations be given "no less frequently than every three months" and that notice for less serious and infrequent monitoring violations be given, at a minimum, "no less frequently than annually." In view of the difficulty of defining and listing "persistent," "significant," and "trivial" violations in a general rule, EPA has decided to classify all monitoring violations as Tier 2 violations. However, under the final rule, States have the option of reducing the frequency of notice for "minor" Tier 2 monitoring violations from quarterly to annually, as long as the violations are not continuous in nature. Specifically, the final rule contains a new section, § 141.32(b)(4), which allows, at the discretion of the State, less frequent notice for minor monitoring violations if EPA has approved a State program that includes regulatory definitions of "minor monitoring violations" and specifies the frequency of public notification, *or* regulations specifying procedures for State approval of less frequent public notice on a case-by-case basis. In either case, notification may be no less frequent than annual. This notice promulgates special primacy requirements to implement this provision under § 142.16.

The revised tier structure for public notification, described above, appears in Table 1.

TABLE 1.—CLASSIFICATION OF VIOLATIONS FOR PUBLIC NOTIFICATION

Tier 1 violations	Tier 2 violations
1. Failure to comply with a MCL.	1. Failure to comply with monitoring requirements.
2. Failure to comply with a prescribed treatment technique.	2. Failure to comply with a testing procedure prescribed by a NPDWR.
3. Failure to comply with a variance or exemption schedule.	3. Operating under a variance or exemption.

2. Manner of Notice

In the April 6, 1987 notice, EPA proposed, for Tier 1 violations, notice by newspaper (with posting in the absence of a newspaper of general circulation), mail delivery, and electronic media (for certain violations) for community water systems; non-community water systems could follow the same requirements or substitute continuous posting. For Tier 2 violations, EPA proposed notice by newspaper (with posting in the absence of a newspaper of general circulation) for community and non-community public water systems, with the option of posting in lieu of newspaper notice by non-community water systems. EPA invited comment additionally on (1) what public notification requirements should apply to non-transient non-

community water systems; (2) whether a requirement to inform new customers of potential health hazards was appropriate; (3) whether to require individual notice to all consumers by hand delivery; and (4) whether to require public water systems to provide an annual violations summary to their customers.

a. *Newspaper Notice.* As noted in the April 6, 1987 notice, the SDWA, as amended, states that "notification of violations shall include notice by general circulation newspaper serving the area. * * *" Therefore, EPA proposed that newspaper notice be required for all violations. Some commenters stated that newspaper notice would be impractical for very small public water systems such as mobile home parks, small subdivisions, and water co-operatives. Some commenters requested that EPA waive newspaper notice under certain circumstances (such as for Tier 2 violations), or for small systems. In view of the statutory requirements regarding newspaper notice for all violations, EPA does not believe it has the option of entirely waiving the notification requirement for some subset of violations. However, as explained below, in the final rule the proposal was modified to allow posting and hand delivery in lieu of newpaper notice.

The proposed rule also required that the newspaper notice be published in a daily or weekly newspaper of general circulation in the area served by the system. EPA considered the "area served by a weekly or daily newspaper" to be the area where a paper is routinely available. In the case of a public water system in violation, the newspaper selected should be one that virtually all customers would be expected to subscribe to or otherwise receive. If no single newspaper could reasonably be expected to be available to the system's customers, then EPA would expect the notice to be published in several newspapers, the intent being to reach virtually all customers. One commenter requested that EPA provide guidance on the definition of "newspaper notice." This requirement could be satisfied in several ways. The most common means of issuing public notice in a newspaper is to take out a notice in the legal notice section. It is also possible to purchase more prominent advertising space. In some cases, a newspaper may be willing to write an article on the subject as a news story, or make prominent space for the notice available as a public service and at no cost to the public water system.

b. *Mail Notice.* EPA proposed mail notice for all Tier 1 violations as part of the initial notice, and as a subsequent notice for any continuing Tier 1 and Tier 2 violations. Notice could be mailed separately or mailed with the water bill. Proposed § 141.33(a)(1)(B) provided that "mail delivery may be waived by the primacy agent in writing where the primacy agent determines that the violation has been corrected within 30 days."

EPA received several comments concerning the appropriateness of notice by mail delivery for certain violations. Some commenters suggested that mail notice be used "sparingly," e.g., for "serious" Tier 1 violations, or replaced by newspaper notice for Tier 2 violations. One commenter indicated that the requirement for written waiver of notice was burdensome, and should be deleted. Still another commenter stated that more time should be allowed for correction of the violation before notice is required, explaining that a violation of a microbiological MCL can be corrected within 30 days, but that correction of other MCL violations can take longer. Another commenter suggested that mail notice be eliminated entirely, as "the delay inherent in notication by mail (or by hand) substantially undermines the usefulness of such notification."

Several commenters, however, objected to any waiver of notice by mail delivery. One commenter expressed the concern that consumers may not be reached by other forms of notice. Another commenter indicated that notice by mail delivery allows users to take such steps as they deem necessary to reduce the likelihood of repeated intermittent violations, and may also be needed to allow especially sensitive members of the public to act to protect their health from intermittent violations—especially those posing acute risks or aggravating existing health problems.

EPA proposed a waiver of mail notice to avoid causing undue alarm upon receiving a notice after the violation has been promptly corrected. EPA believes that when a violation has been corrected, newspaper notice is sufficient without subsequent mail notice after correction of the violation. In response to comments, EPA has extended the deadline for mail delivery from 30 to 45 days in the final rule. This not only gives the system extra time to correct the violation but also allows time to pick up on a billing cycle and therefore reduce the cost of notification. Mail notices will generally address violations with chronic or long-term health effects (EPA expects that violations of NPDWRs for microbiological contaminants will be corrected more quickly); therefore the extra time is not likely to create a problem.

EPA is requiring that any waivers be approved by the State in writing. In developing this waiver provision, the Agency was concerned that it could be used to avoid giving public notice where notice is clearly required. By requiring the State to approve the waiver, the State will have the opportunity to determine that the violation has actually been corrected. Also, the waiver must be in writing so that there is no danger that public water system representatives could erroneously conclude that public notification was waived during a telephone conversation with a State official.

One commenter suggested that EPA require that mail notice be sent not only to the billed address but also to the service address when the two are distinct. EPA endorses this suggestion and encourages its use. However, since this requirement would be difficult to specify in a rule of general applicability that takes into account all the different circumstances involved, EPA has decided to leave this requirement to the discretion of the States.

A number of commenters expressed support for hand delivery of the public notice as an alternative to mail notice for small public water systems such as mobile home parks and subdivisions. EPA has considered this suggestion and believes it to be a viable, effective alternative to mail notice for small public water systems, saving the cost of mailing. Therefore, the final rule allows for the option of hand delivery in place of mail notice.

c. *Posting.*

(1) *General.* In the April 6, 1987 notice, EPA proposed to require posting for community water systems not served by a daily or weekly newspaper of general circulation, and as an option for non-community water systems. The majority of commenters supported this proposal. Two commenters requested that EPA specify the minimum number of postings according to type of public water system (e.g., amusement park, rest stop) and indicate at what point or points the notice should be posted. EPA has considered these suggestions and believes, due to the variety of public water systems in terms of the number of persons and size of the area they serve (particularly non-community water systems), that it is not practical to specify in a general rule the minimum number of posting and posting locations. The Agency believes that these

decisions are best handled on a case-by-case basis and therefore should be left to State discretion.

One commenter stated that EPA's argument for allowing posting by non-community water systems, in lieu of newspaper notice is flawed. As explained in the April 6, 1987 proposal, the rationale for this provision was that: (1) The paramount concern of the transient users of a non-community public water system is the current quality of the drinking water; (2) transient users are generally less interested in the past problems of the non-community water system; (3) transient users may not have wide access to local media such as newspapers; and (4) identification of transient users and their addresses would make subsequent mail notice impractical. The commenter stated that EPA's argument is invalid because it rests on the assumption that transient users do not listen to radios, watch television, or read newspapers. The commenter stated that newspaper notice should be required, "as envisioned by the statute," and electronic media notice should be required for Tier 1 violations in addition to posting.

The decision to allow posting as an option was made based on EPA's conclusion that continuous posting is more stringent than the one-time newspaper notice it would replace since posting a notice for the duration of the violation would most likely reach more consumers that a one-time newspaper notice. EPA did not mean to imply that transient users of a public water system do not use the local media; their exposure to such media in many cases tends, however, to be limited (for example at rest stops long distances from home). Also, posting for non-community water systems is not required; it is merely an option. If newspaper notice will be more effective, the system can use it instead or the State can require it. Posting for community water systems is allowed only where there is no daily or weekly newspaper of general circulation serving the area served by the system, since the newspaper is not available.

Two commenters stated that posting may not be adequate for schools, nursing homes, etc. Another commenter suggested that EPA require that additional notice be sent to parent-teacher associations, school health officials, the appropriate local health agency, and existing community health organizations. Another commenter indicated that some effort should be made to inform the parents or guardians of the persons affected. EPA recognizes this concern and encourages public water systems and/or States to provide additional notice where appropriate to effectively inform these consumers. EPA believes, however, that specific notices tailored to individual subcategories of public water systems—other than the regulatory division between community, transient non-community, and non-transient non-community water systems—should not be prescribed in federal regulations. Determining the specific notice appropriate to each local situation is the responsibility of the public water system. Additional categories of notice tailored to specific circumstances would remove the flexibility of the system and States to respond appropriately to situations of this type.

(2) *Non-transient non-community water systems.* On November 13, 1985, EPA proposed to amend the definition of "community water system" to include non-community water systems serving non-transient users (e.g., schools, factories, daycare centers) and proposed a revised definition for comment (50 FR 46918). In the April 6, 1987, public notification proposal, EPA proposed that these non-transient non-community water systems comply with the public notification regulations for non-community public water systems, rather than the public notification requirements for community water systems. Also, EPA proposed that the requirement for notice to new billing units not apply to non-transient non-community public water systems.

On July 8, 1987 (52 FR 25690), EPA published final NPDWRs for eight volatile synthetic organic chemicals (VOCs). Rather than redefining "community water system," the rule created a subset of non-community public water systems called "non-transient non-community public water systems." (The remaining subset is composed of transient, non-community public water systems.) The rule defines "non-transient non-community public water system" as "a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year." The NPDWRs for VOCs apply to non-transient non-community water systems as well as community water systems. A number of commenters on the proposed public notification rule stated their views concerning the then undecided proposal to amend the definition of community water system to include non-transient non-community water systems (i.e., to subject the latter to NPDWRs). Since these comments were more appropriate to the November 13, 1985 proposal and did not address the manner of notice for these systems (which was the subject of the April 6, 1987 notice), EPA is not responding here to those comments. (EPA responded to them in the final VOC rulemaking.)

One commenter stated that non-transient non-community water systems should be required to notify the public in the same manner as community public water systems. The remaining commenters on this issue were in favor of non-transient non-community water systems giving notice in the same manner as for transient non-community water systems. One commenter noted that a non-transient non-community water system, such as a factory, generally has finite boundaries and a relatively "stable" consumer base coming daily to the same location. The commenter stated that, by posting at the facility, individuals to whom the notice is directed are assured of seeing it, as opposed to taking the chance that they will miss or ignore notice provided by newspaper, media, or mail. Another commenter indicated that to transmit information affecting a relatively small and identifiable target population to thousands of unaffected people by newspaper, radio, and television would be unwarranted and excessive.

EPA has concluded that it is appropriate for non-transient non-community public water systems to give notice in the same manner as transient non-community water systems for the reasons stated in the proposal and by the commenters who agreed with the proposal.

d. *Electronic media notice.* The SDWA amendments provide that notice "whenever appropriate, shall also include a press release to electronic media * * * ." In the April 6, 1987 notice, EPA proposed that electronic media notice be required for any MCL or treatment technique violation which poses an acute risk to human health (such as high coliform, turbidity, or nitrate levels), as the Agency believes that acute risks require immediate notification and may require consumers to take special precautions (e.g., to boil water or seek alternative water supplies). Under the proposal, States would have broad discretion to define acute risk.

Several commenters criticized the lack of a definition of "acute risk" in the proposal. Although it is forseeable that there may be a variety of circumstances where violation of a NPDWR may pose an acute risk, it is difficult to define them by regulation. Most MCLs are based upon long-term, low-level exposure. Normally a slight violation

above an MCL would not be considered acute, while a very high concentration may well be acute. "High" concentration levels are difficult to define; it depends on the contaminant, the concentration, the population at risk, the duration of the contamination incident, and many other factors. Based on the above considerations, in the final rule, EPA has defined only one acute violation: violation of the MCL for nitrate. Generally, any violation of this MCL is considered to be cause for concern. Although violations of the turbidity and coliform MCLs are generally recognized as acute situations, EPA is in the process of revising the turbidity and coliform requirements in the course of developing filtration requirements for public water systems using surface water. As part of that rulemaking, EPA will consider whether violations of any of the filtration treatment technique requirements should be classified as acute. This final public notification rule allows States, at their discretion, to require electronic media notice for other violations that they believe pose an acute risk to human health.

Several commenters suggested that EPA expand the use of electronic media notice to a broadened category of Tier 1 violations. One commenter stated that a press release to electronic media should be required in conjunction with every newspaper notice. It was noted that "most people" in the United States get their news primarily from the electronic media. This commenter also noted that renters and other occupants may never receive notice by mail since they are not billed directly for their water. One commenter expressed the opinion that chronic illnesses and diseases with a long latency period are just as important in terms of cost to individual and society as are acute health effects; therefore, electronic media notice should be required for all Tier 1 violations. EPA has considered these comments and decided not to expand the electronic media notice requirement to include violations posing chronic risks. EPA believes the general public associates electronic media notice with urgency and the need to take immediate action, and the Agency is concerned with causing undue alarm and requiring so many notices that the public may ignore situations where immediate action is required. The Agency also believes that the rule adequately addresses MCL and treatment technique violations by requiring repeat notice for continuing violations; repeat notice keeps the information concerning a chronic situation before the consumer. In addition, States may adopt public notification requirements that are more stringent than the Federal requirements, including those for chronic violations, and therefore can require electronic media notice for chronic violations if they believe it is appropriate.

Another commenter requested that EPA require that electronic media notice not just be "furnished" to, but actually broadcast, by the media. EPA believes that the suggestion that actual broadcast of the notice be required would be too costly for many small public water systems to implement, and therefore the Agency has not adopted this requirement.

e. Other means of notice. (1) Individual notice by hand delivery. In the April 6, 1987 notice, EPA requested comment on whether it should require public water systems to supplement individual delivery by direct mail or mailing with the water bill with hand delivery, or posting at multiple family dwellings, apartment complexes, and other locations where individual consumers may not receive a water bill. The Agency expressed concern that hand delivery of public notice would be difficult and impractical to carry out.

The majority of commenters on this proposal opposed the requirement for public notice by hand delivery. They were concerned that such a requirement would be difficult for the State to enforce, that the public water system would be unable to clearly identify which individuals should get this type of notice, and that public water systems would encounter problems gaining legal entry. In response to these concerns, EPA is not requiring public notice by hand delivery.

Several commenters noted, however, that hand delivery as an additional optional method of notice would be desirable, particularly for small public water systems such as small subdivisions and mobile home parks. EPA agrees. EPA also believes that notice by hand delivery is more effective because it appears by itself, involves direct contact with the consumer, and is less likely to be ignored (as a mail filler might). Therefore, EPA has amended paragraphs 141.32 (a)(3)(i), (a)(3)(ii), (b)(3)(i), and (b)(3)(ii) to allow public notice by hand delivery as an alternative to mail notice or posting.

(2) Annual Summary of Violations. EPA also requested comment on whether it should require owners and operators of public water systems to provide their customers with an annual summary of the overall compliance status of the system. Such notices would inform consumers that often ignore or fail to realize the significance of public notices received sporadically with water bills or separately over the past year and would have significant impact on the consumers of public water systems which have repeated violations. The Agency was concerned, however, that this additional requirement could be administratively burdensome to small public water systems and redundant with the general notice requirements.

The majority of commenters on this proposal did not support it. Several commenters stated that this type of notice, by requiring public water systems to republish information on violations which generally will have already been corrected, would be redundant, burdensome, and difficult to administer.

Other commenters indicated that reissuance of notice would only anger and confuse consumers, particularly if notice would be required regardless of whether violations had been corrected; i.e., when the system is in compliance. The minority of commenters who supported an annual summary of violations stated that such notice would provide documentation of the compliance history of the utility, and was consistent with Congress' intent that the consumers be more fully aware of the compliance history of their utility. One commenter suggested that the annual summary simply should be made available to the public, with copies sent to EPA and the State, rather than requiring distribution to all consumers. The same commenter also suggested that an annual summary should not be required if there were no violations.

EPA has considered these comments and has decided not to require an annual summary of violations. Documentation concerning the compliance history of public water systems is maintained by both EPA and primacy States, and already is available to the public upon request. Also, States may choose to require an annual summary as part of their public notification requirements. For instance, California is currently developing public notification regulations requiring annual notice of violations to consumers. In addition, public water systems have the option, as part of their public information program, to provide annual notice on their own. In view of these considerations, EPA is not requiring public water systems to provide a summary of violations in this final rule.

(3) Notice to new billing units. In the April 6, 1987 **Federal Register** notice, EPA also proposed to add a new requirement that owners and operators of community water systems notify each new billing unit of any existing Tier 1

violation, i.e., MCL or treatment technique violation, at the time service begins. The purpose of this requirement would be to inform new customers of potential health hazards. In order to avoid the additional time and expense which would be involved in the preparation of a new notice each time service to a new customer begins, EPA proposed that the system provide a copy of the most recent notice issued for each violation.

In general, the majority of comments on this proposal were favorable. Several commenters indicated that, while the idea of notice to new billing units is reasonable and compatible with the consumer's right to know the compliance status of its public water system, the requirement may be difficult for the State to enforce because systems routinely add service connections without State supervision. Other commenters had difficulty with the specific wording of the proposed requirement. Under the proposed rule, owners or operators of community public water systems were required to give notice to new billing units or hookups "prior to or at the time service begins." One commenter suggested that the language "or at the time" should be stricken to enable the private citizen to make an educated and informed decision as to the quality of water he or she will be drinking. A second commenter observed that sometimes customers move in before transferring responsibility for service and that the utility has no means of knowing this. EPA agrees that there may be cases where occupancy and use have taken place without the knowledge of the public water system; therefore, EPA has decided to retain the proposed language. The Agency encourages public water systems to give notice to new billing units "prior to" the time service begins, whenever possible.

EPA believes that new customers should be informed of potential health hazards which may be associated with their water systems. Therefore, the Agency is retaining its proposal to require community water systems to give notice to all new billing units of any outstanding Tier 1 violations. It should be noted that a violation of a variance and exemption schedule has been changed to Tier 1 violation and therefore would also be covered by the requirement.

(4) Notice by the State. EPA proposed in the April 6, 1987 **Federal Register** that the State could give notice on behalf of the owner or operator of a public water system. The preamble to the proposed rule specified that when the State gives notice under the provision, "the public water system remains legally responsible for meeting the public notification regulation requirements."

One commenter requested that EPA clarify how a public water system can remain legally responsible for meeting the public notification requirements if the State is the party that issues the notice. Another commenter stated that public water systems themselves, not the State, should retain control of the public notification process. The same commenter stated that the only time a State should be allowed to issue the public notice is when the State actually takes over a public water system due to failure of the system.

The preamble statement in the proposal was intended to emphasize the fact that, under the SDWA, the owner or operator of the public water system is responsible for issuing public notice. The provision allowing notice by the State was not intended to allow the State to take over the public notification functions of a public water system on a routine basis, but to allow for public notification by the State where the public water system fails or is otherwise unable to issue public notice (e.g., in the case of a recalcitrant system).

3. *Form and Content of Notice*

A number of commenters discussed the need for flexibility in the requirement that systems provide a telephone number in the public notice. For instance, some commenters suggested that large utilities provide extensions to allow the public to contact the designated person directly. This is certainly permissible under the final rule. Other commenters asked that small systems be allowed to indicate that the responsible party can only be reached at home during certain hours. This is permissible as long as the public can reach the appropriate person for further information during the designated hours. Some commenters thought that the notice should include State and EPA telephone numbers for callers interested in further information on the mandatory health effects language. There is nothing in the rule to prevent this. If a utility were to coordinate with the appropriate State and EPA officials, this could be beneficial. The details would have to be agreed upon by the involved parties.

One commenter stated that the SDWA does not require the general notification requirements of proposed § 141.32(c) to specifically indicate the "population at risk." The SDWA amendments of 1986, however, stipulate that notices shall take into account the likelihood of reaching all affected persons. The "population at risk" can be interpreted at least two ways: (1) those persons connected to the specific portion of public water system that is contaminated (with the remainder of public water system meeting the standards); or (2) certain easily identified individuals which are most likely to be affected by a certain contaminant (e.g., infants, but not older persons, in the case of nitrate). EPA believes that, in circumstances where the "population at risk" can easily be identified it should be indicated in the notice because it is useful to the consumer in understanding the risks involved.

Most of the comment pertaining to the form and content of public notices concerned the requirement that systems use mandatory language to describe health effects. EPA believes that mandatory language is the most appropriate (if not the only) way to inform the affected public of the health implications of violating a particular EPA standard. It is appropriate for EPA to specify the language because the Agency is familiar with the specific health implications of violating each standard, which were documented in the course of developing the NPDWRs. EPA is aware that the health implications of these violations do vary in their magnitude. Public water systems are free to make that point in their public notices as long as the mandatory language is included as well. For instance, the system may want to note that its violation is only slightly above the standard. In fact, the public water system or State may supplement the notice as long as the notice informs the public of the health risks which EPA has associated with violation of the standards and the mandatory health effects language remains intact.

A number of commenters thought that the proposed mandatory health effects language was too complex. Accordingly, EPA has revised the language to simplify it. The goal was to draft language understandable to that portion of the public reading at the eighth grade level, while at the same time trying not to minimize the seriousness of the problems.

The mandatory language relating to cancer received the most comments. One commenter stated that the proposed language implicitly disparaged the relevance of animal data to human risk. This was not EPA's intent; the Agency has made language changes to clarify the human health risks of drinking water in violation of the drinking water standards for VOCs. In the mandatory language promulgated in the final rule, EPA has attempted to convey an

understanding of the basis for the standard, taking into account the sources of data (e.g., human and/or animal studies) and some of the uncertainties involved in the extrapolation of the data to human consumption of drinking water. The final mandatory language for carcinogens takes these concerns into account.

Some commenters recommended that the mandatory language requirements be extended to the contaminants currently covered by National Interim Primary Drinking Water Regulations (NIPDWRs). EPA has decided not to do so at that time because the NIPDWRs will be revised shortly, as required by the 1986 SDWA amendments, and mandatory language for public notice will be included at that time. EPA believes that to require mandatory language for violation of the NIPDWRs and then change it in a matter of months would cause unnecessary confusion for regulations, public water systems, and the affected public. Therefore, this rule only requires mandatory language for the revised NPDWRs.

4. *Frequency of Notice*

In the April 6, 1987 **Federal Register** notice, the following frequencies for public notice were proposed:

For Tier 1 violations, community water systems would give newspaper notice within 14 days with no repeat notice required, mail notice within 30 days with quarterly repeat notice until the violation was corrected, and electronic media notice within 7 days with no repeat notice. Posting would begin within 14 days and would be continued until the violation had been corrected.

For Tier 2 violations, community water systems would give newspaper notice within three months, to be followed by quarterly repeat mail notice until the violation was corrected. Posting would begin within three months and would continue until the violation had been corrected.

Several commenters stated that the requirement to give public notice within a specified period of time "after the violation" was too vague. Their concern was that public water system operators are not aware that they are in violation until sufficient information is made available to them. This generally does not occur until the lab analysis is complete and the data are evaluated (by the public water system or the State) to determine if a violation under the State or EPA regulations has occurred. This may take place days, weeks, or even a month after the first sample is taken, depending on the monitoring protocols for each primary drinking water regulation.

EPA recognizes the practical concerns raised by the commenters. In developing the final rule, EPA considered the 1986 amendments, which amended section 1414(c) to delete specific reference to giving the notice " * * * as soon as practicable after the discovery of the violation with respect to which the notice is required." This was replaced by " * * * as soon as possible, but in no case later than 14 days after the violation." There is no indication in the legislative history that Congress intended to change the "triggering event" for public notification. The proposed rule language explicitly tracked the amended section 1414(c) language; the final rule retains the same language. EPA interprets the phrase "after the violation" in the final rule to be consistent with the definitions, monitoring procedures, and protocols in each NPDWR for making a compliance determination. The public notification time period will not begin until after sufficient information is available to the system indicating that a violation under Federal or State regulations has occurred. This does not imply that a system should wait for the State primacy agency to analyze the laboratory data and notify the system that a violation has occurred. EPA expects the public notification period to start at the time the system has sufficient data (from the State laboratory or other sources) to make a compliance determination.

A number of commenters raised concerns regarding the time periods allowed for the various notices to be issued. Specific comments were received on the requirement that mail notice for Tier 1 violations be sent within 30 days. Several commenters thought that 45 or 60 days was more appropriate, with some commenters suggesting 90 days to allow the public water system to link the violation notice to quarterly billing cycles. Other commenters objected to the seven-day notice for acute violations, suggesting that 48–72 hours was more appropriate.

Based on an evaluation of these comments, EPA has reconsidered its position and made several changes to the timing for Tier 1 violations. The final rule requires notice for acute violations to be issued as soon as possible, but no later than 72 hours after the violation. EPA reduced this requirement from seven days to ensure that there is immediate notice for these serious violations. Additionally, the timing for direct mail notification of Tier 1 violations was changed in the final rule from 30 days to 45 days to accommodate the monthly and bi-monthly billing cycles of public water systems. This change will allow over 50 percent of the large and medium community water systems to include violation notices in the same mailing as the bill.

Several commenters expressed concern that EPA had reduced the frequency of newspaper notice from three times in the current rule to a one-time publication. The commenter thought this change was not in keeping with Congress' intent to improve the notification rule to maximize the likelihood of reaching all affected persons. In determining the appropriate frequency of newspaper notice, EPA carefully considered not only the likelihood of reaching all affected parties, but also the costs involved. EPA considered the type of notice which is best suited to different systems, and different situations. For example, hand delivery of a notice to the residents of a small trailer park may be the most effective means of notifying them. In addition to newspaper notice, the public notification rule provides for a variety of additional forms of notice which EPA believes increase the likelihood of reaching all affected parties (except where the violation is promptly corrected). Also, for continuing violations, repeat notice of some type is required. In addition, States have the option of adopting public notification regulations more stringent than the federal rules. EPA believes that this combination of types and frequency of notice, combined with State discretion to require additional notice when necessary, will be effective in increasing the likelihood of reaching all affected parties (except where the violation is promptly corrected) and, therefore, fulfills Congressional intent.

A summary of the final regulation is given in Table 2 below.

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TABLE 2 -- SUMMARY OF THE FINAL PUBLIC NOTIFICATION REQUIREMENTS

Violation Category Type	Mandatory Health Effects Info. Required (All PWS)	Notice to New Billing Units (CWS Only)	Type of PWS	Time Frame Within Which Notice Must be Given (1st Box - Initial Notice, 2nd Box - Repeat Notice) Violation: 72 hours / 7 days / 14 days / 45 days / 3 months / Annual
TIER 1			Community	Newspaper[4] | No Repeat
1. MCL	Yes	Yes		Mail or Hand Delivery[2] | Quarterly Repeat
2. Treatment Technique	Yes	Yes		Elec. Media[3] | No Repeat
3. V or E Sch.Viol.	Yes	Yes		
			Non-Community[5]	Option 1: Notice as for Community Water Systems or Option 2: Posting or Hand Delivery | Continuous/Quarterly Repeat
TIER 2			Community	Newspaper[4] | Quarterly Repeat by Mail or Hand Delivery
1. Monitoring[1]	No	No		
2. Testing Procedure	No	No		
3. V or E Issued	Yes	No	Non-Community[5]	Option 1: Notice as for Community Water Systems or Option 2: Posting or Hand Delivery | Continuous/Quarterly Repeat

Footnotes:

1. Less frequent notice (but no less than annual) to be required as in §142.16(a).
2. May be waived in accordance with §141.32(a)(1)(ii).
3. Required only for acute violations as identified in §141.32(a)(1)(iii).
4. If no newspaper of general circulation is available, posting or hand delivery is allowed as specified in §141.32(a)(3)(i) and §141.32(b)(3)(i)).
5. Includes both transient non-community public water systems and non-transient non-community public water systems.

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B. Public Notification Requirements for the Fluoride SMCL

In the April 6, 1987 **Federal Register** notice, to establish mandatory health effects information in public notices for violations of the MCL for fluoride, EPA proposed to incorporate by reference the existing mandatory public notification language for violations of the SMCL for fluoride contained in § 143.5(b) of the National Secondary Drinking Water Regulations into § 141.32(f) of the proposed public notification rule. Since systems which are in violation of the MCL (4.0 mg/1) necessarily exceed the SMCL (2.0 mg/1), the mandatory language in § 143.5(b), as it currently exists, applies to MCL violations as well. Indeed, the § 143.5(b) language includes health effects information concerning both secondary maximum contaminant level exceedances and maximum contaminant level exceedances and maximum contaminant level violations. In addition, several changes to the current fluoride SMCL notification rule (§ 143.5(b)) were necessary to reconcile its provisions with the public notification requirements in the SDWA amendments, which were enacted after EPA promulgated the notification requirements for fluoride SMCL violations. Specifically, EPA proposed to: (1) remove the current restriction in the SMCL rule which prohibits the addition of supplemental information to the prescribed notice for violation of the SMCL; and (2) limit the distribution requirements for the notice of an SMCL violation in § 143.5(b) to exceedances of the SMCL for fluoride which do not exceed the MCL for fluoride. The April 6, 1987 proposal noted that EPA was proposing changes to the fluoride provisions only to make them consistent with the SDWA amendments; the proposed changes for fluoride were the minimum necessary to make them consistent with the SDWA amendments. Therefore, the notice did not repropose or request comment on any other aspect of the fluoride regulations other than the changes required for consistency. Accordingly, EPA is not responding to comments on the other previously promulgated fluoride requirements in this rulemaking; they were addressed in the April 2, 1986 rulemaking.

Based on an evaluation of the comments received, no changes to the proposed revisions to the secondary regulations for fluoride have been made in this final rule.

C. Public Notification Requirements for Lead

EPA proposed in the April 6, 1987 **Federal Register** notice to establish a new section in Subpart D, § 141.34 Public Notice Requirements Pertaining to Lead, in response to section 1417(a)(2) of the SDWA which requires public notification of lead contamination. Comments on this proposal were numerous and several significant changes have been made as a result. This notice promulgates final regulations under § 141.34 specifying the manner and form of the public notification for lead.

1. Applicability of the Notification Requirement

Section 1417(a)(2) of the Act requires that all public water systems identify and provide notice to persons that may be affected by lead contamination of their drinking water where such contamination results from (1) the lead content in the construction materials of the system, and/or (2) corrosivity of the water supply sufficient to cause leaching of lead. Section 1417 requires public notice for lead even if there is no violation of the drinking water standard (i.e., MCL) for lead. Separate notice for any violation of the lead MCL is also required; the general public notification requirements found at 40 CFR 141.32 would apply to this latter notice.

In the April 6, 1987 notice, EPA proposed that only community water systems be required to give public notice for lead. EPA also asked for comment on an option that would require non-transient non-community water systems (e.g., schools factories, daycare centers) to give the lead notice as well. These systems serve the same users over long periods of time, so the chronic health risks to users would be similar to the risks to residential populations. Under this option, non-transient non-community water systems would be subject to the same requirements as community water systems, except that these systems would substitute posting for newspaper and direct mail notice, and the notice to new billing units wold not be required. More than half of the comments received on this option supported the inclusion of non-transient non-community water systems, citing the statutory language and the potential health risks from these systems for support. Other commenters expressed concern about the availability of data to prepare the notice and various administrative problems in implementation.

As described earlier, subsequent to the April 6, 1987 proposal, EPA promulgated a definition of non-transient non-community water systems as part of the final NPDWRs for eight VOCs. The NPDWRs for the eight VOCs apply to these systems. EPA intends to apply future NPDWRs to these systems as well. Therefore, the proposal to subject non-transient non-community water systems to the lead notice requirement is consistent with this policy. Based on this policy, the reasons set out in the proposal, and comments received on the proposal, EPA has decided to broaden the applicability of the lead public notice rule to include non-transient non-community water systems in the final rule.

In the April 6, 1987 notice, EPA proposed that the lead notice would not be required if a community water system demonstrated to the State that either the construction materials in the water system (defined to include the residential and non-residential facilities connected to the water system) were lead free, or, if by taking water samples for lead, the water system could show that its water was noncorrosive to lead-containing materials in the water system and all construction materials containing lead in the water system are at least five years old. EPA stated in the proposal that it believed few community water systems would qualify for this exemption.

Comments on this portion of the proposal were numerous; several major concerns were identified. First, a large number of commenters objected to the inclusion of household plumbing in the definition of water system, arguing that household plumbing is beyond the control of the water system and that the lead content of household plumbing is unknown. EPA has retained this definition in the final rule for purposes of determining who must give public notice because the public notice is intended to inform and educate all consumers about the dangers of lead in drinking water from all sources, including lead solder in household plumbing. In addition, this definition is consistent with the applicability of the lead ban (see section 1417(a)(1) of the Act). The public notice is a requirement to inform the public and does not otherwise alter the liabilities or responsibilities of the public water system.

Second, a number of commenters requested that the Agency specifically define when "corrosivity of the water supply [is] sufficient to cause leaching of lead." The proposed rule specified that public water systems were to determine

corrosivity to lead based on actual water samples. However, all waters are capable of leaching lead to some degree. The rate of leaching depends on many factors, including the type of plumbing materials, amount of lead surface in contact with water, the age of the material, the chemistry and temperature of the water, and the amount of flushing of the plumbing. EPA is currently studying these parameters in the course of developing a revised NPDWR for lead. However, available studies have been unable to correlate any easily measured water quality parameters with lead concentrations at the consumer's tap. These studies also demonstrate that even with optimal treatment there is still a high probability of leaching lead. Therefore, based on current information, EPA has concluded that all community and non-transient non-community water systems should provide the lead public notice unless they can demonstrate to the State that there is no lead-containing material in the water system, including the residential and nonresidential portions of the system. This requirement is reflected on the final rule.

Additional information may become available in the course of developing the monitoring requirements for lead—the revised NPDWR for lead is scheduled for promulgation in mid-1988—that allows a public water system to determine that its water is "non/corrosive" to lead. If so, EPA would consider amending this public notification rule.

Third, a large number of public water system, States, and other commenters suggested that the Agency should allow States to give the lead notice on behalf of public water systems, at least in some cases. EPA agrees that notification by the State may be sometimes appropriate, as long as the State notice on behalf of the water systems contains all the elements listed under § 141.34(c) and (d) (including system-specific information about what each system is doing to mitigate the lead content in drinking water and whether there is any need to serve alternative supplies) and meets the requirements under 141.34(b). See discussion under II.c.3 below.) In order to make State notification a more viable option, the final rule revised the manner of notice from requiring mail and newspaper notice to allowing water systems to give notice either by mail, newspaper, or hand delivery (also, posting is an additional option for non-transient non-community water systems). If a State chooses to give statewide notice of the behalf of the public water systems covered by this rule, the State could, for example, use newspaper advertisements, in newspapers serving the area, that are of sufficient size and location in the newspaper that they would likely attract widespread attention. In addition, the State should use public service announcements, on radios and television serving the area, that are aired at such times and frequency as are necessary to reach the consumers for which the notice is intended.

EPA disagrees with the commenters who stated that the rule should transfer some of the legal responsibility for the lead notice to the States. The statute and legislative history clearly place the responsibility for fulfilling this requirement on the public water system. Thus, while EPA is allowing States to provide the lead notice on behalf of the water system, under the conditions of § 141.34(f), described below, the water system remains legally liable for ensuring the notice takes place.

Fourth, several States and public water systems thought that public notice should be required only where there was a clear indication that the drinking water would potentially have lead concentrations above the maximum contaminant level set by EPA. The commenters suggested that EPA and the State use data collected under the 1980 corrosivity monitoring requirement to determine which systems should be required to give public notice. EPA disagrees with this interpretation of the statutory requirement; it believes that the statute and legislative history require public water systems to give notice to persons that may be affected by lead contamination; the Act clearly requires lead notice even if there is no MCL violation.

Lastly, one commenter asked about the applicability of the lead notice requirements to consecutive systems. EPA expects the owner or operator of a public water system which is subject to the public notification requirements for lead, and which provides water to another community or non-transient non-community water system, to provide one-time notice by letter to the receiving system. The receiving system, in turn, must provide its customers public notice concerning lead in compliance with the lead public notification requirements.

2. Frequency of Notice

Section 1417(b)(2) of the Act states that the public notice requirements for lead "shall apply in all states effective 24 months after the enactment of this section." In the April 6, 1987, notice EPA proposed to codify this provision by requiring the owner or operator of each community water systems to issue the initial notice for lead no later than June 19, 1988. EPA also proposed that each system give notice annually for five years from the initial notice or the effective date of the lead ban, whichever was later. (The lead ban is mandated by sections 1417 (a)(1) and (b)(1)) of the Safe Drinking Water Act.) EPA proposed a five-year span because experience indicates that lead levels are substantially decreased five years after the last application of new lead solder in water supply systems.

Several commenters objected to the proposed requirement for a repeat notice each year for five consecutive years; most thought a single notice was sufficient and that repeat notices would be costly and difficult for the State to enforce. Several commenters thought that repeat notices were unnecessary because of the lead ban and other outreach activities. Two commenters, on the other hand, thought that the notice should be repeated each year until the lead ban was in effect in the community served by the water system. EPA agrees that the five-year repeat notice requirement is probably not generally necessary and that a mandatory five-year notice would be costly to implement. Certainly the statute does not require ongoing notice. In addition, EPA expects to promulgate a revised NPDWR for lead by June, 1988, and to be in effect by December, 1989 (18 months after promulgation). The revised NPDWR will more directly control lead in drinking water. Therefore, EPA has changed the final rule to require a single year notice, to begin on or before June 19, 1988. If the owner or operator chooses to give newspaper notice, such notice is to be given once a month for three consecutive months. The mail and hand delivery options require one-time notice. If a non-transient non-community water system chooses posting, it is to be continuous for three months.

3. Manner of Notice

Section 1417 of the SDWA requires the Administrator to prescribe the manner and form of the public notice for lead. In the April 6, 1987 notice, EPA proposed that notice to the consumer be given by mail delivery (direct mail or with individual water bills) and by newspaper notice.

In the April 6, 1987 proposal, EPA also requested comment on an option to require that public water systems supplement mail notice with hand delivery of notices to individual units or posting at multiple family dwellings, apartment complexes, and other locations where individual consumer may not receive a water bill.

EPA received numerous comments on the manner of notice proposed in the April 6, 1987 notice. Most of the commenters on this aspect of the proposal objected to the requirement for a mail notice, believing that the mail notice was both costly and less effective than other forms of communication (i.e., newspaper, electronic media). Many of these commenters also thought that a mail notice should be tailored to the severity of the problem in the individual water system, with more notices required where a lead problem is known.

EPA agrees that the form of the notice should be tailored to the problems in the individual water system and has decided to make the requirement more flexible. Therefore, the final rule requires that water systems give one notice, using an option of mail notice, newspaper notice, or hand delivery. Posting is an additional option for non-transient non-community water systems. If the water system chooses the newspaper notice, it must give notice once per month for three consecutive months. If posting is chosen by the non-transient non-community water system, it must be continuous for three months. The mail or hand delivery options require single-time notices.

4. Form and Content of Notice

Section 1417(a)(2)(B) of the Act specifically requires that public notices for lead be written in a clear and readily understandable manner. The Act states that notices must include information concerning potential sources of lead in drinking water, potential adverse health effects, reasonably available methods of mitigating known or potential lead content in drinking water, any steps the system is taking to mitigate lead content in drinking water, and the necessity for seeking alternative water supplies, if any.

EPA proposed in the April 6, 1987 notice a list of general requirements for the content of lead public notices. In addition to the statutory requirements outlined above, EPA proposed to require that community water systems include specific advice in the notice on how to minimize exposure to water likely to contain high levels of lead. The April 6, 1987 proposal also set out language on the health effects of lead that would be mandatory for all lead notices. The Agency believes that requiring specific language will ensure accurate and consistent toxicological information in every public notice and simplify the preparation of the individual notices. The proposal gave the community water systems the flexibility to draft the remainder of the notice to best reflect the specific circumstances of the individual systems.

EPA received numerous comments on this portion of the proposal. Many commenters asked for more complete guidelines on what specific advice EPA thought they should provide consumers. Several asked for "boilerplate language" or a publication that would meet the requirements to be inserted with the water bill. Three commenters recommended boilerplate language to be included in EPA guidelines. EPA agrees and is developing a sample public notice to be distributed as part of a public notification handbook. The Agency has recently published *Lead and Your Drinking Water*, which also is available for this purpose. Also, many commenters objected to the specific health effects language included in the April 6, 1987 proposal, viewing the proposed language as too technical, confusing, and (in some parts) unnecessarily alarming. EPA agrees with this comment and has revised the mandatory language to be more educational, simple, and objective.

D. Revised State Implementation Requirements

Part 142 contains regulations for implementation and enforcement of the public water programs by States ("primacy requirements"). In the April 6, 1987 notice, EPA proposed to revise § 142.16 State Public Notification Requirements, to require States to adopt regulations at least as stringent as the amended general public notification regulations under 40 CFR 141.32 as a condition of obtaining or retaining primacy. This provision would replace the current State public notice program requirements in § 142.16, which lists the minimum provisions necessary for State assumption of primacy. The regulations currently in § 142.16 are not as stringent as the public notification requirements in § 141.32.

In the April 6, 1987 proposal, EPA also solicited comment on whether State public notification requirements less stringent than the requirements of the proposed § 141.32 would meet the statutory requirements for primacy under section 1413(a)(2), which requires States to have "adequate procedures for the enforcement of State regulations." In the proposal EPA interpreted this requirement to mean that States must adopt provisions "no less stringent" than § 141.32. This proposed change from the current requirements was influenced by two factors: (1) section 1414(c) requires notice for all violations (including monitoring violations) and sets fixed time periods for notice that are much more explicit than the previous provision (the revised provisions of § 141.32 are essentially the minimum necessary to comply with section 1414(c)); and, (2) if States adopted rules less stringent then the revised EPA regulations, § 141.32 would continue in effect (and be the authority EPA would cite in all enforcement actions). This second factor would mean that, in both legal and practical terms, public water systems would have to comply with two sets of regulations.

Comments received on this section were mixed, with three commenters strongly supporting the requirement that States adopt rules that are "no less stringent" than the federal rules and several other commenters requesting greater State flexibility. The latter commenters requested that no change be made in the current primacy requirement under § 142.16 which, as noted earlier, allows a State to adopt public notification requirements that are less stringent than the federal rules. EPA agrees with these commenters that requiring public notification rules at least as stringent as the federal regulation would require changes in many State programs. In particular, States would have to adopt rules to require public notice for monitoring violations, which currently is not required under § 142.16.

After considering all the comments, EPA has decided to promulgate the basic primacy requirement as proposed. States will be required to adopt regulations no less stringent than the revised § 141.32. To respond to State concerns that adoption of § 141.32 would remove the flexibility the States now have to tailor the notice to the most serious problems (and, in turn, avoid notice for trivial or minor problems), EPA has revised the proposal to build greater flexibility in the public notification rule itself (§ 141.32). Subject to EPA review and approval, the final rule gives States broader discretion to specify the frequency of notice for minor Tier 2 monitoring violations (see Section II.A.1, above).

III. Effective Dates

EPA proposed that the general public notice requirements under 40 CFR 141.32 and the public notice requirements pertaining to lead under 40 CFR 141.34 become effective 30 days after promulgation. Commenters on this proposal stated that the effective date of 30 days after promulgation for the general public notice requirement did not consider the time required for States to revise their current primacy programs to adopt the new public notification requirements. Virtually all States have

been delegated primary enforcement authority, or "primacy," under section 1413 of SDWA. EPA agrees with the commenters that the addition of a new requirement effective on the public water systems, without concurrent State adoption of the new provision, would split direct program responsibility between EPA and the State. Further, where States have public notification requirements currently in effect, the addition of the new federal rules would mean that public water systems would follow two sets of rules.

Some commenters suggested that a deadline of 18 months after promulgation would provide adequate time for States to make the necessary regulatory revisions. One commenter indicated that "clustering" of deadlines for adoption of various drinking water rules would be desirable in order to facilitate the interaction of State drinking water programs and their legislatures. In response to the concerns raised above, EPA has revised the effective date for the new requirements under 40 CFR 141.32 to 18 months after promulgation. (The other new sections retain the 30-day effective date as proposed.) The shift to an 18-month effective date for the new § 141.32 is consistent with the effective date required by statute for NPDWRs (section 1412(b)(10)) and will give States ample opportunity to adopt a program revision before the Federal provisions become effective on the public water systems. The current public notification requirements (which are presently in § 141.32) have been moved to § 141.36, and will remain in effect during the next 18 months.

The effective date for the public notice requirements pertaining to lead under 40 CFR 141.34 remains as proposed as 30 days after promulgation. The Agency believes prompt implementation is necessary in order to meet the June 19, 1988, statutory date for enforcement of the public notification requirements for lead.

IV. Executive Order 12291

Executive Order 12291 requires each Federal agency to determine if a regulation is a "major" rule as defined by the Order and, "to the extent permitted by law," to prepare and consider a Regulatory Impact Analysis (RIA) in connection with every major rule. This action is not a "major" regulatory action as defined by the executive order. Therefore, EPA has not prepared an RIA. This regulation has been reviewed by the Office of Management and Budget (OMB) as required by Executive Order 12291.

V. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2040–0090.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires EPA to explicitly consider the effect of regulations on small entities. If there is a substantial effect on a substantial number of small systems, the Agency must seek means to minimize the effects. Such action is not required, however, when the head of an Agency certifies that a proposed rule will not have a significant economic impact on a substantial number of small entities.

In the April 6, 1987 proposed rule, EPA explained its assessment that the economic impact on the small public water systems resulting from implementation of the regulation is expected to be negligible. Based on this assessment, I certified that the proposed rule, if promulgated, would not have a significant impact on a substantial number of small entities. EPA sought comment on this certification and the submission of other additional information related to the potential impact of these proposed rules on small entities.

Based on the comments received and consideration of the changes made in the proposed rule, I certify that this final rule will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Parts 141, 142, and 143

Administrative practice and procedure, Chemicals, Radiation protection, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

Dated: October 13, 1987.

Lee M. Thomas,

Administrator.

For the reasons set forth in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 141—[AMENDED]

1. The authority for Part 141 is revised to read as follows:

Authority: 42 U.S.C. 300g–1, 300g–3, 300g–6, 300j–4, and 300j–9.

2. Part 141 is amended by redesignating § 141.32 as § 141.36 and adding an introductory paragraph to read as follows:

§ 141.36 Public notification.

The requirements in this section apply until April 28, 1989. After April 28, 1989 the requirements of § 141.32 will apply.

* * * * *

3. Part 141 is amended by adding a new § 141.32 to read as follows:

§ 141.32 Public notification.

The requirements in this section are effective April 28, 1989. The requirements of § 141.36 apply until April 28, 1989.

(a) *Maximum contaminant level (MCL), treatment technique, and variance and exemption schedule violations.* The owner or operator of a public water system which fails to comply with an applicable MCL or treatment technique established by this part or which fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, shall notify persons served by the system as follows:

(1) Except as provided in paragraph (a)(3) of this section, the owner or operator of a public water system must give notice:

(i) By publication in a daily newspaper of general circulation in the area served by the system as soon as possible, but in no case later than 14 days after the violation or failure. If the area served by a public water system is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area; and

(ii) By mail delivery (by direct mail or with the water bill), or by hand delivery, not later than 45 days after the violation or failure. The State may waive mail or hand delivery if it determines that the owner or operator of the public water system in violation has corrected the violation or failure within the 45-day period. The State must make the waiver in writing and within the 45-day period; and

(iii) For violations of the MCLs of contaminants that may pose an acute risk to human health, by furnishing a copy of the notice to the radio and television stations serving the area served by the public water system as soon as possible but in no case later than 72 hours after the violation. The following violations are acute violations:

(A) Any violations specified by the State as posing an acute risk to human health.

(B) Violation of the MCL for nitrate as defined in § 141.11(b) and determined according to § 141.23(d).

(C) [Reserved].

(2) Except as provided in paragraph (a)(3) of this section, following the initial notice given under paragraph (a)(1) of this section, the owner or operator of the public water system must give notice at least once every three months by mail delivery (by direct mail or with the water bill) or by hand delivery, for as long as the violation or failure exists.

(3) (i) In lieu of the requirements of paragraph (a)(1)(i) of this section, the owner or operator of a community water system in an area that is not served by a daily or weekly newspaper of general circulation must give notice within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

(ii) In lieu of the requirements of paragraphs (a) (1) and (2) of this section, the owner or operator of a non-community water system may give notice within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

(b) *Other violations, variances, exemptions.* The owner or operator of a public water system which fails to perform monitoring required by section 1445(a) of the Act (including monitoring required by the National Primary Drinking Water Regulations (NPDWRs) of this part), fails to comply with a testing procedure established by this part, is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) of the Act, or is subject to an exemption under section 1416 of the Act, shall notify persons served by the system as follows:

(1) Except as provided in paragraph (b)(3) or (b)(4) of this section, the owner or operator of a public water system must give notice within three months of the violation or granting of a variance or exemption by publication in a daily newspaper of general circulation in the area served by the system. If the area served by a public water system is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area.

(2) Except as provided in paragraph (b)(3) or (b)(4) of this section, following the initial notice given under paragraph (b)(1) of this section, the owner or operator of the public water system must give notice at least once every three months by mail delivery (by direct mail or with the water bill) or by hand delivery, for as long as the violation exists. Repeat notice of the existence of a variance or exemption must be given every three months for as long as the variance or exemption remains in effect.

(3) (i) In lieu of the requirements of paragraphs (b)(1) and (b)(2) of this section, the owner or operator of a community water system in an area that is not served by a daily or weekly newspaper of general circulation must give notice, within three months of the violation or granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places with the area served by the system. Posting must continue for as long as the violation exists or a variance or exemption remains in effects. Notice by hand delivery must be repeated at least every three months for as long as the violation exists or a variance or exemption remains in effect.

(ii) In lieu of the requirements of paragraphs (b)(1) and (b)(2) of this section, the owner or operator of a non-community water system may give notice, within three months of the violation or the granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation exists, or a variance or exemption remains in effect. Notice by hand delivery must be repeated at least every three months for as long as the violation exists or a variance or exemption remains in effect.

(4) In lieu of the requirements of paragraphs (b)(1), (b)(2), and (b)(3) of this section, the owner or operator of a public water system, at the discretion of the State, may provide less frequent notice for minor monitoring violations as defined by the State, if EPA has approved the State's application for a program revision under § 142.16. Notice of such violations must be given no less frequently than annually.

(c) *Notice to new billing units.* The owner or operator of a community water system must give a copy of the most recent public notice for any outstanding violation of any maximum contaminant level, or any treatment technique requirement, or any variance or exemption schedule to all new billing units or new hookups prior to or at the time service begins.

(d) *General content of public notice.* Each notice required by this section must provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population at risk, the steps that the public water system is taking to correct such violation, the necessity for seeking alternative water supplies, if any, and any preventive measures the consumer should take until the violation is corrected. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall include the telephone number of the owner, operator, or designee of the public water system as a source of additional information concerning the notice. Where appropriate, the notice shall be multi-lingual.

(e) *Mandatory health effects language.* When providing the information on potential adverse health effects required by paragraph (d) of this section in notices of violations of maximum contaminant levels or treatment technique requirements, or notices of the granting or the continued existence of exemptions or variances, or notices of failure to comply with a variance or exemption schedule, the owner or operator of a public water system shall include the language specified below for each contaminant. (If language for a particular contaminant is not specified below at the time notice is required, this paragraph does not apply.)

(1) *Trichloroethylene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that trichloroethylene is a health concern at certain levels of exposure. This chemical is a common metal cleaning and dry cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth the enforceable drinking water standard for trichloroethylene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(2) *Carbon tetrachloride.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that carbon tetrachloride is a health concern at certain levels of exposure. This chemical was once a popular household cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of of time. EPA has set the enforceable drinking water standard for carbon tetrachloride at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(3) *1,2–Dichloroethane.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,2–dichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaning fluid for fats, oils, waxes, and resins. It generally gets into drinking water from improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,2–dichloroethane at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(4) *Vinyl chloride.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that vinyl chloride is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into drinking water by improper waste disposal. This chemical has been associated with significantly increased risks of cancer among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high levels over their lifetimes. Chemicals that cause increased risk of cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for vinyl chloride at 0.002 part per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(5) *Benzene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that benzene is a health concern at certain levels of exposure. This chemical is used as a solvent and degreaser of metals. It is also a major component of gasoline. Drinking water contamination generally results from leaking undergound gasoline and petroleum tanks or improper waste disposal. This chemical has been associated with significantly increased risks of leukemia among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high levels over their lifetimes. Chemicals that cause increased risk of cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for benzene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(6) *1,1–Dichloroethylene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,1-dichloroethylene is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals which cause adverse effects in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,1–dichloroethylene at 0.007 parts per million (ppm) to reduce the risk of these adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(7) *Para-dichlorobenzene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that para-dichlorobenzene is a health concern at certain levels of exposure. This chemical is a component of deodorizers, moth balls, and pesticides. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed to high levels over their lifetimes. Chemicals which cause adverse effects in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for para-dichlorobenzene at 0.075 parts per million (ppm) to reduce the risk of these adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(8) *1,1,1-Trichloroethane.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that the 1,1,1-trichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaner and degreaser of metals. It generally gets into drinking water by improper waste disposal. This chemical has been shown to damage the liver, nervous system, and circulatory system of laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during their working careers also suffered damage to the liver, nervous system, and

circulatory system. Chemicals which cause adverse effects among exposed industrial workers and in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,1,1-trichloroethane at 0.2 parts per million (ppm) to protect against the risk of these adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(9) *Fluoride.*

[Note.—EPA is not specifying language that must be included in a public notice for a violation of the fluoride maximum contaminant level in this section because § 143.5 of this part includes the necessary information. See paragraph (f) of this section.]

(f) *Public notices for fluoride.* Notice of violations of the maximum contaminant level for fluoride, notices of variances and exemptions from the maximum contaminant level for fluoride, and notices of failure to comply with variance and exemption schedules for the maximum contaminant level for fluoride shall consist of the public notice prescribed in § 143.5(b), plus a description of any steps which the system is taking to come into compliance.

(g) *Public notification by the State.* The State may give notice to the public required by this section on behalf of the owner or operator of the public water system if the State complies with the requirements of this section. However, the owner or operator of the public water system remains legally responsible for ensuring that the requirements of this section are met.

4. Subpart D is amended by adding a new § 141.34 to read as follows:

§ 141.34 Public notice requirements pertaining to lead.

(a) *Applicability of public notice requirement.* (1) Except as provided in paragraph (a)(2) of this section, by June 19, 1988, the owner or operator of each community water system and each non-transient, non-community water system shall issue notice to persons served by the system that may be affected by lead contamination of their drinking water. The State may require subsequent notices. The owner or operator shall provide notice under this section even if there is no violation of the national primary drinking water regulation for lead.

(2) Notice under paragraph (a)(1) of this section is not required if the system demonstrates to the State that the water system, including the residential and non-residential portions connected to the water system, are lead free. For the purposes of this paragraph, the term "lead free" when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead, and when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead.

(b) *Manner of notice.* Notice shall be given to persons served by the system either by (1) three newspaper notices (one for each of three consecutive months and the first no later than June 19, 1988); or (2) once by mail notice with the water bill or in a separate mailing by June 19, 1988; or (3) once by hand delivery by June 19, 1988. For non-transient non-community water systems, notice may be given by continuous posting. If posting is used, the notice shall be posted in a conspicuous place in the area served by the system and start no later than June 19, 1988, and continue for three months.

(c) *General content of notice.* (1) Notices issued under this section shall provide a clear and readily understandable explanation of the potential sources of lead in drinking water, potential adverse health effects, reasonably available methods of mitigating known or potential lead content in drinking water, any steps the water system is taking to mitigate lead content in drinking water, and the necessity for seeking alternative water supplies, if any. Use of the mandatory language in paragraph (d) of this section in the notice will be sufficient to explain potential adverse health effects.

(2) Each notice shall also include specific advice on how to determine if materials containing lead have been used in homes or the water distribution system and how to minimize exposure to water likely to contain high levels of lead. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall contain the telephone number of the owner, operator, or designee of the public water system as a source of additional information regarding the notice. Where appropriate, the notice shall be multilingual.

[Note (Optional Information): Each notice should advise persons served by the system to use only the cold water faucet for drinking and for use in cooking or preparing baby formula, and to run the water until it gets as cold as it is going to get before each use. If there has recenlty been major water use in the household, such as showering or bathing, flushing toilets, or doing laundry with cold water, flushing the pipes should take 5 to 30 seconds; if not, flushing the pipes could take as long as several minutes. Each notice should also advise persons served by the system to check to see if lead pipes, solder, or flux have been used in plumbing that provides tap water and to ensure that new plumbing and plumbing repairs use lead-free materials.

The only way to be sure of the amount of lead in the household water is to have the water tested by a competent laboratory. Testing is especially important to apartment dwellers because flushing may not be effective in high-rise buildings that have lead-soldered central piping. As appropriate, the notice should provide information on testing.]

(d) *Mandatory health effects information.* When providing the information in public notices required under paragraph (c) of this section on the potential adverse health effects of lead in drinking water, the owner or operator of the water system shall include the following specific language in the notice:

"The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that lead is a health concern at certain levels of exposure. There is currently a standard of 0.050 parts per million (ppm). Based on new health information, EPA is likely to lower this standard significantly.

"Part of the purpose of this notice is to inform you of the potential adverse health effects of lead. This is being done even though your water may not be in violation of the current standard.

"EPA and others are concerned about lead in drinking water. Too much lead in the human body can cause serious damage to the brain, kidneys, nervous system, and red blood cells. The greatest risk, even with short-term exposure, is to young children and pregnant women.

"Lead levels in your drinking water are likely to be highest:

- if your home or water system has lead pipes, or
- if your home has copper pipes with lead solder, and

—if the home is less than five years old, or

—if you have soft or acidic water, or

—if water sits in the pipes for several hours."

(e) *Notice by the State.* The State may give notice to the public required by this section on behalf of the owner or operator of the water system if the State meets the requirements of paragraph (b) and the notice contains all the information specified in paragraphs (c) and (d) of this section. However, the owner or operator of the water system remains legally responsible for ensuring that the requirements of this section are met.

(f) *Enforcement by the State.* All States shall enforce the requirements of

this section by June 19, 1988, as required by section 1417(b)(2) of the Act. If the Administrator determines that a State is not enforcing these requirements, the Administrator may withhold up to five percent of the State program grant fund under section 1443(a) of the Act.

PART 142—[AMENDED]

1. The authority citation for Part 142 is revised to read as follows:

Authority: 42 U.S.C. §§ 330g–2, 300g–3, 300g–4., 300g–5, 300g–6, 300j–4, and 300j–9.

2. Section 142.10 is amended by revising paragraph (b)(6)(v) to read as follows:

§ 142.10 Requirements for a determination of primary enforcement responsibility.

* * * * *

(b) * * *

(6) * * *

(v) Authority to require public water systems to give public notice that are no less stringent than the EPA requirements in §§ 142.32 and 142.16(a).

* * * * *

3. Section 142.16 is revised to read as follows:

§ 142.16 Special primacy requirements.

(a) *State public notification requirements.* If a State exercises the option specified in § 142.32(b)(4) to authorize less frequent notice for minor monitoring violations, it must adopt a program revision enforceable under State authorities which promulgates rules specifying either: (1) which monitoring violations are minor and the frequency of public notification for such violations; or (2) by establishing criteria for determining which monitoring violations are minor and the frequency of public notification.

PART 143—[AMENDED]

1. The authority citation for Part 143 continues to read as follows:

Authority: 42 U.S.C. 330g–1(c), 300j–4, and 300j–9.

2. In § 143.5, paragraph (a) and the introductory text of paragraph (b) are revised to read as follows:

§ 143.5 Compliance with secondary maximum contaminant level and public notification for fluoride.

(a) Community water systems, as defined in 40 CFR 141.2(e)(i) of this title, that exceed the secondary maximum contaminant level for fluoride as determined by the last single sample taken in accordance with the requirements of § 141.23 of this title or any equivalent State law, but do not exceed the maximum contaminant level for fluoride as specified by § 141.62 of this title or any equivalent State law, shall provide the notice prescribed in paragraph (b) of all billing units annually, all new billing units at the time service begins, and the State public health officer.

(b) The notice required by paragraph (a) shall contain the following language including the language necessary to replace the superscripts:

* * * * *

[FR Doc. 87–24331 Filed 10–27–87; 8:45 am]

BILLING CODE 6560–50–M

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Wednesday, October 28, 1987

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H.R. 3226 / Pub. L. 100-138

To amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug Free America to be allowed travel expenses, and for other purposes. (Oct. 23, 1987; 101 Stat. 820; 2 pages) Price: $1.00